5122. By Mr. LUTHER A. JOHNSON: Petition of the legislative committee of the Bryan and Brazos County Chamber of Commerce, by D. L. Wilson, secretary, of Bryan, Tex., and H. A. Bardwell, president of the Texas State Federation of Federal Employees, of San Antonio, Tex., favoring House bills 2700 and 6587; to the Committee on the Civil Service.

5123. By Mr. KRAMER: Resolution of the California Conference of Social Work, relative to the problem of migrants and transients in California, etc.; to the Committee on Ways and Means.

5124. Also, resolution of the State committee of young Democratic clubs of California, relative to passage of the wage and hour bill; to the Committee on Labor.

5125. Also, resolution of the assembly and senate of the State of California, relative to memorializing the President and the Congress to make available Federal funds for flood control; to the Committee on Appropriations.

5126. Also, resolution of the California Conference of Social Work, relative to approval of House bill 8225, etc.; to the Committee on Ways and Means.

5127. By Mr. HOUSTON: Petition of the county commissioners of Sedgwick County, State of Kansas, urging the enactment into law during this session of Congress of House bill 4199; to the Committee on Ways and Means.

5128. By Mr. PFEIFER: Petition of the American Optical Co., New York City, urging support of House bill 9209; to the Committee on Ways and Means.

5129. Also, petition of Abraham & Straus, Inc., Brooklyn, N. Y., urging the enactment of House bill 9209, introduced by Congressman TOWEY; to the Committee on Ways and Means.

5130. Also, petition of the Reuben H. Donnelley Corporation, New York City, endorsing the Towey bill (H. R. 9209); to the Committee on Ways and Means.

5131. Also, petition of the New York League of Women Voters, New York City, favoring passage of the Ramspeck postmasters' bill as passed by the House; to the Committee on the Civil Service.

5132. Also, petition of the Blind Industrial Workers Association of New York State, Inc., Brooklyn, N. Y., urging the passage of Senate bill 2819; to the Committee on Interstate and Foreign Commerce.

5133. Also, petition of the New York City Federation of Women's Clubs, Inc., New York City, favoring the Martin wool-labeling bill (H. R. 9909); to the Committee on Interstate and Foreign Commerce.

5134. By Mr. THURSTON: Petition of citizens of Albia, Iowa, approving Senate Joint Resolution No. 223; to the Committee on the Judiciary.

5135. By Mr. TOBEY: Petition distributed by La Casse Post, No. 808, Veterans of Foreign Wars, Claremont, N. H., and signed by Claremont Community Players, to keep America out of war; to the Committee on Foreign Affairs.

5136. Also, petition of the Catholic Daughters of America, Claremont, N. H., distributed by La Casse Post, No. 808, Veterans of Foreign Wars, to keep America out of war; to the Committee on Foreign Affairs.

5137. By the SPEAKER: Petition of the Interstate Conference of Unemployment Compensation Agencies, Washington, D. C., petitioning consideration of their resolution dated April 27, 1938, with reference to unemployment; to the Committee on Labor.

5138. Also, petition of the Los Angeles County Council, American Legion, Los Angeles, Calif., petitioning consideration of their resolution dated May 6, 1938, with reference to adequate emergency funds for the operation of the Federal Bureau of Investigation; to the Committee on Appropriations.

5139. Also, petition of James T. M. Bleakley, of Bronx County, city and State of New York, petitioning consideration of their resolution dated May 14, 1938, with reference to cemetery property in New York State; to the Committee on the Judiciary.

5140. Also, petition of the Board of Supervisors of the County of Alameda, State of California, petitioning consideration of their Resolution No. 32365, dated May 9, 1938, concerning House bill 4199, known as the General Welfare Act; to the Committee on Ways and Means.

5141. Also, petition of the County Board of Price County, State of Wisconsin, petitioning consideration of their Resolution No. 1787, dated May 4, 1938, concerning House bill 4199, known as the General Welfare Act; to the Committee on Ways and Means.

5142. Also, petition of the General Federation of Women's Clubs, Washington, D. C., petitioning consideration of their Resolution No. 3 with reference to income-tax returns; to the Committee on Ways and Means.

5143. Also, petition of the Industrial Commission of Utah, Salt Lake City, Utah, petitioning consideration of their resolution dated May 7, 1938, with reference to Senate bill 3772, concerning States paying unemployment compensation benefits; to the Committee on Ways and Means.

5144. Also, petition of Alhambra Camp, No. 41, United Spanish War Veterans, Department of California, petitioning consideration of their resolution dated May 10, 1938, concerning House Resolution No. 425, authorizing a congressional investigation in the case of John H. Hoeppel; to the Committee on Rules.

5145. Also, petition of Philadelphia Bourse, Philadelphia, Pa., petitioning consideration of their resolution dated May 11, 1938, concerning wages and hours in employment; to the Committee on Labor.

5146. Also, petition of Southern Californians, Inc., Los Angeles, Calif., petitioning consideration of their resolution dated May 2, 1938, concerning the National Labor Relations Act; to the Committee on Labor.

5147. Also, petition of the California Conference of Social Work, San Francisco, Calif., petitioning consideration of their resolution concerning House bill 9256 with reference to Social Security Board; to the Committee on Ways and Means.

5148. Also, petition of the Board of Supervisors of the County of Alameda, State of California, petitioning consideration of their Resolution No. 32365, dated May 9, 1938, concerning House bill 4199 known as the General Welfare Act; to the Committee on Ways and Means.

5149. Also, petition of the Alabama State Federation of Labor, Birmingham, Ala., petitioning consideration of their Resolution No. 5, with reference to Works Progress Administration program; to the Committee on Appropriations.

5150. Also, petition of J. L. Edwards and others, of the State of Alabama, petitioning consideration of a petition with reference to F. D. A. Inter-Regional Conference dated May 12, 1938; to the House Committee on Agriculture.

5151. Also, petition of Charles McAdam, of Danville, Ill., petitioning consideration of their petition with reference to violations of the Constitution dated May 9, 1938; to the Committee on the Judiciary.

SENATE

TUESDAY, MAY 17, 1938

(Legislative day of Wednesday, April 20, 1938)

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

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Monday, May 16, 1938, was dispensed with, and the Journal was approved.

MESSAGES FROM THE PRESIDENT

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

CALL OF THE ROLL

Mr. LEWIS. I suggest the absence of a quorum, as it is apparent one is not present, and ask for a roll call.

The VICE PRESIDENT. The clerk will call the roll.

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

Adams	Donahey	La Follette	Radcliffe
Andrews	Duffy	Lewis	Russell
Austin	Ellender	Lodge	Schwartz
Bailey	Frazier	Logan	Schwellenbach
Bankhead	George	Lonergan	Sheppard
Barkley	Gerry	Lundeen	Shipstead
Berry	Gibson	McAdoo	Smathers
Bilbo	Gillette	McCarran	Smith
Bone	Glass	McGill	Thomas, Okla.
Borah	Green	McKellar	Thomas, Utah
Bridges	Hale	McNary	Townsend
Brown, Mich.	Harrison	Maloney	Truman
Bulkley	Hatch	Miller	Tydings
Bulow	Hayden	Minton	Vandenberg
Burke	Herring	Murray	Van Nuys
Byrd	Hill	Neely	Wagner
Byrnes	Hitchcock	Norris	Walsh
Capper	Holt	O'Mahoney	Wheeler
Caraway	Hughes	Overton	White
Chavez	Johnson, Calif.	Pepper	
Copeland	Johnson, Colo.	Pittman	
Dieterich	King	Pope	

Mr. LEWIS. I announce that the Senator from Arizona [Mr. ASHURST] and the Senator from Oregon [Mr. REAMES] are detained from the Senate because of illness.

The Senator from Oklahoma [Mr. LEE] is absent because of illness in his family.

The Senator from New Hampshire [Mr. BROWN], the Senator from Missouri [Mr. CLARK], the Senator from Texas [Mr. CONNALLY], the Senator from Pennsylvania [Mr. GUFFEY], the Senator from New Jersey [Mr. MILTON], and the Senator from North Carolina [Mr. REYNOLDS] are detained on important public business.

I ask that this announcement be recorded for the day.

Mr. AUSTIN. I announce that the Senator from Pennsylvania [Mr. DAVIS] and the Senator from North Dakota [Mr. NYE] are necessarily absent from the Senate.

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

CONSTRUCTION OF CERTAIN VESSELS FOR COAST AND GEODETIC SURVEY

The VICE PRESIDENT laid before the Senate a letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize the construction of certain vessels for the Coast and Geodetic Survey, Department of Commerce, and for other purposes, which, with the accompanying papers, was referred to the Committee on Commerce.

REPORT OF TEXTILE FOUNDATION

The VICE PRESIDENT laid before the Senate a letter from the Chairman of the Textile Foundation, transmitting, pursuant to law, a report of the Textile Foundation for the year ended December 31, 1937, which, with the accompanying report, was referred to the Committee on Commerce.

PETITION AND MEMORIAL

Mr. LODGE presented a petition of sundry citizens of Middlesex County, Mass., praying for the enactment of legislation to prohibit the advertising of intoxicating liquors by the press and radio, which was referred to the Committee on the Judiciary.

Mr. TYDINGS presented a memorial of sundry citizens of Montgomery County, Md., remonstrating against the enactment of legislation providing for a Federal tax on fuel oil, which was referred to the Committee on Finance.

REPORTS OF COMMITTEES

Mr. THOMAS of Oklahoma, from the Committee on Indian Affairs, to which was referred the bill (S. 1325) to provide funds for cooperation with Wapato School District No. 54, Yakima County, Wash., for extension of public-school buildings to be available for Indian children of the Yakima Reservation, reported it without amendment and submitted a report (No. 1796) thereon.

Mr. SHIPSTEAD, from the Committee on Indian Affairs, to which was referred the bill (H. R. 4540) authorizing the Red Lake Band of Chippewa Indians in the State of Minnesota to file suit in the Court of Claims, and for other purposes, reported it with an amendment and submitted a report (No. 1797) thereon.

OSAGE INDIANS OF OKLAHOMA

Mr. THOMAS of Oklahoma. Mr. President, I ask unanimous consent to report from the Committee on Indian Affairs an original bill and to submit a report (No. 1798) thereon. This bill was approved by the Committee on Indian Affairs at the request of the Department. I ask that the bill may be placed directly on the calendar.

There being no objection, the bill (S. 4036) relating to the tribal and individual affairs of the Osage Indians of Oklahoma was read twice by its title and ordered to be placed on the calendar.

BILLS INTRODUCED

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

By Mr. VANDENBERG:

A bill (S. 4030) for the relief of J. H. McLaughlin; to the Committee on Claims.

By Mr. SMITH:

A bill (S. 4031) to reimburse the producer members of cotton cooperative associations for losses occasioned by the Federal Farm Board's stabilization operations and for other purposes; to the Committee on Agriculture and Forestry.

By Mr. LEWIS:

A bill (S. 4032) to authorize the Cairo Bridge Commission, or the successors of said commission, to acquire by purchase and to improve, maintain, and operate a toll bridge across the Mississippi River at or near Cairo, Ill.; to the Committee on Commerce.

By Mr. COPELAND:

A bill (S. 4033) authorizing the States of New York and Connecticut to construct, maintain, and operate a toll bridge across Long Island Sound near Orient Point, Long Island, N. Y., and Groton Long Point, Conn.; to the Committee on Commerce.

By Mr. MURRAY:

A bill (S. 4034) authorizing the Secretary of War to lease or sell the mineral rights of the United States in certain lands in Lewis and Clark County, Mont., to Thomas C. Cooper; to the Committee on Public Lands and Surveys.

By Mr. KING:

A bill (S. 4035) to exempt the property of the Young Women's Christian Association in the District of Columbia from national and municipal taxation; to the Committee on the District of Columbia.

(Mr. THOMAS of Oklahoma introduced Senate bill 4036, which was placed on the calendar and appears under a separate heading.)

By Mr. SHEPPARD:

A bill (S. 4037) relative to the military record of Charles C. Rascoe, deceased; to the Committee on Military Affairs.

By Mr. TYDINGS (by request):

A bill (S. 4038) to provide for the ratification of all joint resolutions of the Legislature of Puerto Rico and of the former legislative assembly; to the Committee on Territories and Insular Affairs.

AMENDMENT OF BANKRUPTCY LAW

Mr. AUSTIN submitted an amendment intended to be proposed by him to the bill (H. R. 8046) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, and acts amendatory thereof and supplementary thereto; and to repeal section 76 thereof and all acts and parts of acts inconsistent therewith, which was referred to the Committee on the Judiciary and ordered to be printed.

RELIEF AND WORK RELIEF APPROPRIATIONS—AMENDMENT

Mr. VANDENBERG. Mr. President, I submit a proposed substitute for title I of House Joint Resolution 679, the relief measure, and ask that it may be printed in the usual form, printed in the RECORD, and lie on the table.

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

The amendment intended to be proposed by Mr. VANDENBERG to the joint resolution (H. J. Res. 679) making appropriations for work relief, relief, and otherwise to increase employment by providing loans and grants for public-works projects is as follows:

SECTION 1. That to provide relief, and work relief, and to increase employment, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $2,410,000,000, which shall be available for the period commencing July 1, 1938, and ending on June 31, 1939.

SEC. 2. (a) Not more than $2,250,000,000 of the sum appropriated by section 1 shall be available for grants-in-aid to States to assist them in financing and administering such forms of relief and work relief and methods of increasing employment as may be determined upon and undertaken by them. Such amount shall be allocated by the Federal Relief Board (hereinafter established), with the approval of the President, among the several States upon the basis of the Board's findings and conclusions with respect to the facts concerning and weight to be given to unemployment and living costs in, and population and financial resources of, the several States. Not more than 15 percent of such amount shall be paid to any State.

(b) The sum allocated to a State under subsection (a) shall be paid quarterly by order of the Federal Relief Board to the State if—

(1) The Governor (or in the case of the District of Columbia, the District Commissioners) has certified to the Federal Relief Board that there has been established a board of relief trustees in such State, the membership of which is not composed solely of individuals who are members of the same political party, and that such board has the power and duty of receiving and disbursing sums which may be granted such State under this section;

(2) The State board has certified to the Federal Relief Board that the State, or its subdivisions, or both, have provided or are prepared to provide an amount equal to not less than 25 percent of the amount allocated to it under this section, for relief, work relief, or methods of increasing employment; and

(3) The State board has agreed to furnish to the Federal Relief Board such reports (respecting the administration of the relief, work relief, or methods of increasing employment with respect to which funds allocated to the State under this section are used) in such form and containing such information as the Federal Relief Board may from time to time require, and to comply with such provisions as the Federal Relief Board may from time to time find necessary to assure the correctness and verification of such reports.

(c) If the Federal Relief Board finds that any part of an amount granted to a State under this section has been diverted to a purpose not reasonably within the purpose of furnishing relief, work relief, or increasing employment, or that more than 80 percent of the amount devoted to such purposes has been expended out of grants under this section, the amount of future grants to be made to the State shall be reduced by an amount equal to the amount the Board determines has been diverted or the amount the Board determines to be such excess.

(d) The Federal Relief Board shall allocate, out of the sum specified in subsection (a), such sums as it deems necessary on the basis of the needs of Puerto Rico, the Virgin Islands, and the Canal Zone for relief, work relief, and increasing employment. Such sums shall be expended as the Board prescribes as necessary for such purposes and subject to such requirement, if any, as the Board may prescribe for contribution by the possessions to such purposes.

SEC. 3. Not more than 160,000,000 of the sum appropriated by section 1 shall be available to enable the Federal Relief Board, with the approval of the President, in its discretion and on its order, to make such grants or loans to States as it deems necessary in order to meet extraordinary and unforeseen emergencies, and such grants or loans shall be made without regard to the provisions of section 2. The sum specified in this section shall also be available for all administrative expenses of the United States in carrying out the provisions of section 2 and this section.

SEC. 4. (a) There is hereby established the Federal Relief Board, which shall be composed of three members appointed by the President, by and with the advice and consent of the Senate. Not more than two of the members of the Board shall be members of the same political party and the President shall designate one of the members as chairman. Each member shall receive a salary at the rate of $10,000 per annum.

(b) The Board shall have the power and duty of carrying out sections 2 and 3 of this act, and such powers and duties shall be exercised under the direction and subject to the approval of the President.

(c) The Board is authorized to make such expenditures, and, subject to the civil-service laws and rules and regulations made thereunder and the Classification Act of 1923, as amended, to appoint and fix the compensation of such officers and employees, as may be necessary to carry out its powers and duties.

SEC. 5. Any person who knowingly makes any false statement in connection with securing a grant or loan or making any report or furnishing any information under section 2 or 3, or who solicits or receives political contributions from any person who directly or indirectly receives any part of a grant or loan made under section 2 or 3, or any person who, in administering any such grant or loan, discriminates against any person on account of race, religion, or political affiliation shall, on conviction thereof, be deemed guilty of a misdemeanor and fined not more than $2,000 or imprisoned not more than 1 year, or both. For the purposes of this section, each payment made by a State to which a grant or loan has been made under section 2 or 3 for relief, work relief, or increasing employment shall be considered to consist one-fourth of funds of the State and three-fourths of funds of the United States.

SEC. 6. The funds herein appropriated shall be so apportioned and distributed over the period beginning July 1, 1938, and ending on January 31, 1939, and shall be so administered during such period as to constitute the total amount that will be furnished during such period for relief purposes.

SEC. 7. As used in this act, the term "State" means the several States, Alaska, Hawaii, and the District of Columbia.

SEC. 8. This act may be cited as the Relief Appropriation Act of 1938.

PUBLIC WORKS ON RIVERS AND HARBORS—AMENDMENTS

Mr. SHEPPARD submitted three amendments intended to be proposed by him to the bill (H. R. 10298) authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, which were referred to the Committee on Commerce and ordered to be printed.

Mr. HILL submitted an amendment intended to be proposed by him to the bill (H. R. 10298) authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, which was referred to the Committee on Commerce, ordered to be printed and to be printed in the RECORD, as follows:

On page 4, after line 6, to insert the following new paragraph:

"Alabama and Coosa Rivers, Georgia and Alabama; from Rome, Ga., to the junction of the Alabama and Tombigbee Rivers, and with a view to providing a 9-foot channel from the mouth of Mobile River to Rome, Ga., subject to final approval by the Board of Engineers for Rivers and Harbors."

INVESTIGATION OF LOBBYING ACTIVITIES

Mr. MINTON submitted the following resolution (S. Res. 279), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the limit of expenditures for the special committee of the Senate, appointed pursuant to Senate Resolution No. 165, Seventy-fourth Congress, as amended and supplemented, to investigate lobbying activities, is hereby increased by $25,000.

TOM MOONEY AND AMERICAN JUSTICE—ADDRESS BY SENATOR MURRAY

[Mr. BONE asked and obtained leave to have printed in the Appendix of the RECORD a radio address entitled "Tom Mooney and American Justice," delivered by Senator MURRAY on May 10, 1938, which appears in the Appendix.]

THE DEMOCRATIC OUTLOOK—ADDRESS BY HON. JAMES A. FARLEY

[Mr. PEPPER asked and obtained leave to have printed in the RECORD an address entitled "The Democratic Outlook from a National Point of View," delivered by Hon. James A. Farley at an outdoor mass meeting held under the auspices of the Leon County Democratic Committee, Tallahassee, Fla., April 29, 1938, which appears in the Appendix.]

AIR MAIL WEEK—PRIZE ESSAY BY MISS ELLEN PEAK, OF KANSAS

[Mr. MCGILL asked and obtained leave to have printed in the RECORD the prize essay written by Miss Ellen Peak, a student of the Sacred Heart Academy, Manhattan, Kans., in the National Air Mail Week contest, which appears in the Appendix.]

AIR-MAIL WEEK—PRIZE ESSAY BY PERRY MORRISON, OF CALIFORNIA

[Mr. MCADOO asked and obtained leave to have printed in the RECORD the prize essay written by Perry Morrison, a student of the Monrovia-Arcadia-Duarte High School, Monrovia, Calif., in the National Air Mail Week contest, which appears in the Appendix.]

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had passed without amendment the following bills and joint resolutions of the Senate:

S. 1465. An act for the relief of Beryl M. McHam;

S. 2257. An act for the relief of Helene Landesman;

S. 2644. An act for the relief of Sherm Sletholm, Loneata Sletholm, Lulu Yates, Madeline Yates, and the estate of Ella A. Morris;

S. 2676. An act to amend the act approved August 24, 1935, entitled "An act to authorize the erection of a suitable memorial to Maj. Gen. George W. Goethals within the Canal Zone";

S. 2966. An act authorizing the Comptroller General to settle and adjust the claim of H. W. Adelberger, Jr.;

S. 2967. An act authorizing the Comptroller General to settle and adjust the claim of Tiffany Construction Co.;

S. 3103. An act for the relief of the Comision Mixta Demarcadora de Limites Entre Colombia y Panama;

S. 3149. An act authorizing the Interstate Bridge Commission of the State of New York and the Commonwealth of Pennsylvania to reconstruct, maintain, and operate a free highway bridge across the Delaware River between points in the city of Port Jervis, Orange County, N. Y., and the Borough of Matamoras, Pike County, Pa.;

S. 3213. An act to amend the act entitled "An act authorizing the Oregon-Washington Board of Trustees to construct, maintain, and operate a toll bridge across the Columbia River at Astoria, Clatsop County, Oreg.," approved June 13, 1934, as amended;

S. 3220. An act to authorize the Secretary of the Treasury to transfer the title and all other interests in the old tower clock from the Escambia County Courthouse Building, acquired by the Government by deed, to the Pensacola Historical Society of Pensacola, Escambia County, Fla.;

S. 3532. An act to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Randolph, Mo.;

S. 3595. An act to authorize the purchase and distribution of products of the fishing industry;

S. J. Res. 253. Joint resolution extending for 2 years the time within which American claimants may make application for payment, under the Settlement of War Claims Act of 1928, of awards of the Mixed Claims Commission and the Tripartite Claims Commission, and extending until March 10, 1940, the time within which Hungarian claimants may make application for payment, under the Settlement of War Claims Act of 1928, of awards of the War Claims Arbiter;

S. J. Res. 284. Joint resolution to authorize an appropriation for the expenses of participation by the United States in the Third Pan American Highway Conference; and

S. J. Res. 285. Joint resolution to authorize and request the President of the United States to invite the International Union of Geodesy and Geophysics to hold its Seventh General Assembly in the United States during the calendar year 1939, and to invite foreign governments to participate in that general assembly; and to authorize an appropriation to assist in meeting the expenses necessary for participation by the United States in the meeting.

The message also announced that the House had passed the bill (S. 750) to grant relief to persons erroneously convicted in courts of the United States, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills of the Senate, severally with amendments, in which it requested the concurrence of the Senate:

S. 842. An act to provide for an investigation and report of losses resulting from the campaign for the eradication of the Mediterranean fruit fly by the Department of Agriculture;

S. 1700. An act for the relief of William A. Patterson, Albert E. Rust, Louis Pfeiffer; and John L. Nesbitt and Cora B. Geller, as executors under the will of James T. Bentley; and

S. 3290. An act to impose additional duties upon the United States Public Health Service in connection with the investigation and control of the venereal diseases.

The message also announced that the House had concurred in the concurrent resolution (S. Con. Res. 34), as follows:

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H. R. 4276) to amend the act entitled "An act to create a juvenile court in and for the District of Columbia," and for other purposes, the Clerk of the House is authorized and directed to renumber the sections beginning with section 26 so that the last section of the bill will be numbered 43, and to make necessary changes in references to sections.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H. R. 7187) to amend section 12B of the Federal Reserve Act, as amended.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 10140) to amend the Federal Aid Road Act, approved July 11, 1916, as amended and supplemented, and for other purposes, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. CARTWRIGHT, Mr. WARREN, Mr. WHITTINGTON, Mr. WOLCOTT, and Mr. MOTT were appointed managers on the part of the House at the conference.

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

H. R. 1250. An act for the relief of Emilie Dew, Jack Welsh, Mary Jane Bowden, and Henry U. Gaines, Jr.;

H. R. 2347. An act for the relief of Drs. M. H. DePass and John E. Maines, Jr., and the Alachua County Hospital;

H. R. 2690. An act granting annual and sick leave with pay to substitutes in the Postal Service;

H. R. 2716. An act to provide for the local delivery rate on certain first-class mail matter;

H. R. 4033. An act for the relief of Antonio Masci;

H. R. 4227. An act for the relief of Mrs. R. A. Smith;

H. R. 4304. An act for the relief of Hugh O'Farrell and the estate of Thomas Gaffney;

H. R. 5904. An act for the relief of L. P. McGown;

H. R. 5957. An act for the relief of LeRoy W. Henry;

H. R. 6016. An act for the relief of Lavina Karns;

H. R. 6289. An act granting a pension to certain soldiers, sailors, and marines for service in the War with Spain, the Philippine Insurrection, and the China Relief Expedition;

H. R. 6404. An act for the relief of Martin Bevilacque;

H. R. 6669. An act for the relief of Augusta L. Collins;

H. R. 6846. An act for the relief of Harvey and Carrie Robinson;

H. R. 6847. An act for the relief of the Berkeley County Hospital and Dr. J. N. Walsh;

H. R. 6936. An act for the relief of Joseph McDonnell;

H. R. 6951. An act for the relief of Harold Price;

H. R. 7040. An act for the relief of Forest Lykins;

H. R. 7060. An act for the relief of James Mohin and Joseph Lercara;

H. R. 7166. An act for the relief of the estate of Raymond Finklea;

H. R. 7421. An act for the relief of E. D. Frye;

H. R. 7424. An act for the relief of certain persons whose cotton was destroyed by fire in the Ouachita Warehouse, Camden, Ark.;

H. R. 7537. An act for the relief of certain stevedores employed on the United States Army transport docks in San Francisco, Calif.;

H. R. 7590. An act to quiet title and possession to certain islands in the Tennessee River in the counties of Colbert and Lauderdale, Ala.;

H. R. 7998. An act for the relief of The First National Bank & Trust Co. of Kalamazoo, Kalamazoo, Mich.;

H. R. 8047. An act to amend the Meat Inspection Act of March 4, 1907, as amended and extended, with respect to its application to farmers, retail butchers, and retail dealers;

H. R. 8051. An act for the relief of Roswell H. Haynie;

H. R. 8123. An act for the relief of Sonia M. Bell;

H. R. 8134. An act to quiet title and possession to certain lands in the Tennessee River in the counties of Colbert and Lauderdale, Ala.;

H. R. 8192. An act for the relief of Herbert Joseph Dawson;

H. R. 8252. An act to quiet title and possession to a certain island in the Tennessee River in the county of Lauderdale, Ala.;

H. R. 8365. An act for the relief of the North Mississippi Oil Mills, of Holly Springs, Miss.;

H. R. 8373. An act for the relief of List & Clark Construction Co.;

H. R. 8391. An act for the relief of Frances M. Heinzelmann;

H. R. 8479. An act for the relief of Jane Murrah;

H. R. 8543. An act for the relief of Earl J. Lipscomb;

H. R. 8665. An act to amend section 3336 of the Revised Statutes, as amended, pertaining to brewers' bonds, and for other purposes;

H. R. 8835. An act for the relief of Fred H. Kocor;

H. R. 8849. An act validating a certain conveyance, heretofore made by the Southern Pacific Railroad Co., a corporation, and its lessee, Southern Pacific Co., a corporation, involving certain portions of right-of-way in the town of Indio, in the county of Riverside, State of California, acquired under section 23 of the act of March 3, 1871 (16 Stat. 573);

H. R. 9199. An act for the relief of Helen M. Krekler and the estate of Kemp Plummer;

H. R. 9201. An act for the relief of the Federal Land Bank of Berkeley, Calif., and A. E. Colby;

H. R. 9203. An act for the relief of certain postmasters and certain contract employees who conducted postal stations;

H. R. 9297. An act for the relief of Dr. Samuel A. Riddick;

H. R. 9371. An act authorizing the grant of a patent for certain lands in New Mexico to Mitt Taylor;

H. R. 9577. An act to amend section 402 of the Merchant Marine Act, 1936, to further provide for the settlement of ocean-mail contract claims;

H. R. 9848. An act to require that horses and mules belonging to the United States which have become unfit for service be destroyed or put to pasture;

H. R. 9975. An act to extend the times for commencing and completing the construction of a bridge over Lake Sabine at or near Port Arthur, Tex.;

H. R. 9983. An act authorizing the city of Greenville, Miss., and Washington County, Miss., singly or jointly, to construct, maintain, and operate a toll bridge across the Mississippi River from a point at or near the city of Greenville, Washington County, Miss., to a point at or near Lake Village, Chicot County, Ark.;

H. R. 10024. An act to establish the Olympic National Park, in the State of Washington, and for other purposes;

H. R. 10075. An act to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Brownville, Nebr.;

H. R. 10117. An act granting the consent of Congress to construct, maintain, and operate a toll bridge, known as the Smith Point Bridge, across navigable waters at or near Mastic, southerly to Fire Island, Suffolk County, N. Y.;

H. R. 10118. An act granting the consent of Congress to construct, maintain, and operate toll bridges, known as the Long Island Loop Bridges, across navigable waters at or near East Marion to Shelter Island, and Shelter Island to North Haven, Suffolk County, N. Y.;

H. R. 10190. An act to equalize certain allowances for quarters and subsistence of enlisted men of the Coast Guard with those of the Army, Navy, and Marine Corps;

H. R. 10261. An act authorizing the town of Friar Point, Miss., and Coahoma County, Miss., singly or jointly, to construct, maintain, and operate a toll bridge across the Mississippi River from a point at or near the town of Friar Point, Coahoma County, Miss., to a point at or near Helena, Phillips County, Ark.;

H. R. 10297. An act to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Rulo, Nebr.;

H. R. 10337. An act to amend title VI of the Merchant Marine Act, 1936, and for other purposes;

H. R. 10351. An act to extend the times for commencing and completing the construction of a bridge across the Columbia River at Astoria, Clatsop County, Oreg.;

H. R. 10379. An act to facilitate the control of soil erosion and/or flood damage originating upon lands within the exterior boundaries of the Cleveland National Forest in San Diego County, Calif.;

H. R. 10432. An act to amend an act approved June 14, 1906 (34 Stat. 263), entitled "An act to prevent aliens from fishing in the waters of Alaska";

H. R. 10482. An act to prohibit the unauthorized use of the name or insignia of the 4–H clubs, and for other purposes;

H. R. 10530. An act to extend for 2 additional years the 3½-percent interest rate on certain Federal land-bank loans, and to provide for a 4-percent interest rate on Land Bank Commissioner's loans until July 1, 1940;

H. R. 10535. An act to amend the Second Liberty Bond Act, as amended;

H. R. 10611. An act to extend the times for commencing and completing the construction of a bridge across the Coosa River at or near Gilberts Ferry in Etowah County, Ala.; and

H. J. Res. 667. Joint resolution to authorize an appropriation to aid in defraying the expenses of the observance of the seventy-fifth anniversary of the Battles of Chickamauga, Ga., Lookout Mountain, Tenn., and Missionary Ridge, Tenn.; and to commemorate the one hundredth anniversary of the removal from Tennessee of the Cherokee Indians, at Chattanooga, Tenn., and at Chickamauga, Ga., from September 18 to 24, 1938, inclusive; and for other purposes; to the Committee on Military Affairs.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

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

H. R. 1250. An act for the relief of Emilie Dew, Jack Welsh, Mary Jane Bowden, and Henry U. Gaines, Jr.;

H. R. 2347. An act for the relief of Drs. M. H. DePass and John E. Maines, Jr., and the Alachua County Hospital;

H. R. 4033. An act for the relief of Antonio Masci;

H. R. 4227. An act for the relief of Mrs. R. A. Smith;

H. R. 4304. An act for the relief of Hugh O'Farrell and the estate of Thomas Gaffney;

H. R. 5904. An act for the relief of L. P. McGown;

H. R. 5957. An act for the relief of LeRoy W. Henry;

H. R. 6016. An act for the relief of Lavina Karns;

H. R. 6669. An act for the relief of Augusta L. Collins;

H. R. 6846. An act for the relief of Harvey and Carrie Robinson;

H. R. 6847. An act for the relief of the Berkeley County Hospital and Dr. J. N. Walsh;

H. R. 6951. An act for the relief of Harold Price;

H. R. 7040. An act for the relief of Forest Lykins;

H. R. 7060. An act for the relief of James Mohin and Joseph Lercara;

H. R. 7166. An act for the relief of the estate of Raymond Finklea;

H. R. 7424. An act for the relief of certain persons whose cotton was destroyed by fire in the Ouachita Warehouse, Camden, Ark.;

H. R. 7537. An act for the relief of certain stevedores employed on the United States Army transport docks in San Francisco, Calif.;

H. R. 7998. An act for the relief of The First National Bank & Trust Co. of Kalamazoo, Kalamazoo, Mich.;

H. R. 8051. An act for the relief of Roswell H. Haynie;

H. R. 8123. An act for the relief of Sonia M. Bell;

H. R. 8365. An act for the relief of the North Mississippi Oil Mills, of Holly Springs, Miss.;

H. R. 8391. An act for the relief of Frances M. Heinzelmann;

H. R. 8479. An act for the relief of Jane Murrah;

H. R. 8543. An act for the relief of Earl J. Lipscomb;

H. R. 8835. An act for the relief of Fred H. Kocor;

H. R. 9199. An act for the relief of Helen M. Krekler and the estate of Kemp Plummer;

H. R. 9201. An act for the relief of the Federal Land Bank of Berkeley, Calif., and A. E. Colby;

H. R. 9203. An act for the relief of certain postmasters and certain contract employees who conducted postal stations; and

H. R. 9297. An act for the relief of Dr. Samuel A. Riddick; to the Committee on Claims.

H. R. 2690. An act granting annual and sick leave with pay to substitutes in the Postal Service; and

H. R. 2716. An act to provide for the local delivery rate on certain first-class mail matter; to the Committee on Post Offices and Post Roads.

H. R. 6289. An act granting a pension to certain soldiers, sailors, and marines for service in the War with Spain, the Philippine Insurrection, and the China Relief Expedition; to the Committee on Pensions.

H. R. 6404. An act for the relief of Martin Bevilacque;

H. R. 6936. An act for the relief of Joseph McDonnell;

H. R. 7421. An act for the relief of E. D. Frye; and

H. R. 8192. An act for the relief of Herbert Joseph Dawson; to the Committee on Naval Affairs.

H. R. 7590. An act to quiet title and possession to certain islands in the Tennessee River in the counties of Colbert and Lauderdale, Ala.;

H. R. 8134. An act to quiet title and possession to certain lands in the Tennessee River in the counties of Colbert and Lauderdale, Ala.;

H. R. 8252. An act to quiet title and possession to a certain island in the Tennessee River in the county of Lauderdale, Ala.;

H. R. 8849. An act validating a certain conveyance, heretofore made by the Southern Pacific Railroad Co., a corporation, and its lessee, Southern Pacific Co., a corporation, involving certain portions of right-of-way in the town of Indio, in the county of Riverside, State of California, acquired under section 23 of the act of March 3, 1871 (16 Stat. 573);

H. R. 9371. An act authorizing the grant of a patent for certain lands in New Mexico to Mitt Taylor; and

H. R. 10024. An act to establish the Olympic National Park, in the State of Washington, and for other purposes; to the Committee on Public Lands and Surveys.

H. R. 8047. An act to amend the Meat Inspection Act of March 4, 1907, as amended and extended, with respect to its application to farmers, retail butchers, and retail dealers;

H. R. 10379. An act to facilitate the control of soil erosion and/or flood damage originating upon lands within the exterior boundaries of the Cleveland National Forest in San Diego County, Calif.; and

H. R. 10482. An act to prohibit the unauthorized use of the name or insignia of the 4–H clubs, and for other purposes; to the Committee on Agriculture and Forestry.

H. R. 8665. An act to amend section 3336 of the Revised Statutes, as amended, pertaining to brewers' bonds, and for other purposes; and

H. R. 9848. An act to require that horses and mules belonging to the United States which have become unfit for service be destroyed or put to pasture; to the Committee on Finance.

H. R. 9975. An act to extend the times for commencing and completing the construction of a bridge over Lake Sabine at or near Port Arthur, Tex.;

H. R. 9983. An act authorizing the city of Greenville, Miss., and Washington County, Miss., singly or jointly, to construct, maintain, and operate a toll bridge across the Mississippi River from a point at or near the city of Greenville, Washington County, Miss., to a point at or near Lake Village, Chicot County, Ark.;

H. R. 10075. An act to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Brownville, Nebr.;

H. R. 10261. An act authorizing the town of Friar Point, Miss., and Coahoma County, Miss., singly or jointly, to construct, maintain, and operate a toll bridge across the Mississippi River from a point at or near the town of Friar Point, Coahoma County, Miss., to a point at or near Helena, Phillips County, Ark.;

H. R. 10297. An act to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Rulo, Nebr.;

H. R. 10337. An act to amend title VI of the Merchant Marine Act, 1936, and for other purposes; and

H. R. 10611. An act to extend the times for commencing and completing the construction of a bridge across the Coosa River at or near Gilberts Ferry in Etowah County, Ala.; to the Committee on Commerce.

H. R. 10432. An act to amend an act approved June 14, 1906 (34 Stat. 263), entitled "An act to prevent aliens from fishing in the waters of Alaska"; to the Committee on Territories and Insular Affairs.

H. R. 10530. An act to extend for 2 additional years the 3½-percent interest rate on certain Federal land-bank loans, and to provide for a 4-percent interest rate on Land Bank Commissioner's loans until July 1, 1940; to the Committee on Banking and Currency.

H. R. 8373. An act for the relief of List & Clark Construction Co.;

H. R. 9577. An act to amend section 402 of the Merchant Marine Act, 1936, to further provide for the settlement of ocean-mail contract claims;

H. R. 10117. An act granting the consent of Congress to construct, maintain, and operate a toll bridge, known as the Smith Point Bridge, across navigable waters at or near Mastic, southerly to Fire Island, Suffolk County, N. Y.;

H. R. 10118. An act granting the consent of Congress to construct, maintain, and operate toll bridges, known as the Long Island Loop Bridges, across navigable waters at or near East Marion to Shelter Island, and Shelter Island to North Haven, Suffolk County, N. Y.;

H. R. 10190. An act to equalize certain allowances for quarters and subsistence of enlisted men of the Coast Guard with those of the Army, Navy, and Marine Corps;

H. R. 10351. An act to extend the times for commencing and completing the construction of a bridge across the Columbia River at Astoria, Clatsop County, Oreg.; and

H. R. 10535. An act to amend the Second Liberty Bond Act, as amended; to the Calendar.

CRITICISMS OF PRESIDENT ROOSEVELT'S POLICIES AND OF AMERICAN CABINET OFFICERS BY REPRESENTATIVES, POLITICAL AND COMMERCIAL, OF FOREIGN COUNTRIES

Mr. NEELY obtained the floor.

Mr. LEWIS. Mr. President——

The VICE PRESIDENT. Does the Senator from West Virginia yield to the Senator from Illinois?

Mr. NEELY. I yield to the Senator from Illinois.

Mr. LEWIS. Mr. President, I ask the indulgence of the Senate for a moment upon a matter which does not concern or touch the bill of the able Senator from West Virginia, whose courtesy in yielding to me I now acknowledge.

On yesterday, in a public office at London, England, the former Chancellor of the Exchequer of England, Viscount Horne, now occupying influential positions in two different forms of responsibility in England, made a speech in which he found it agreeable to make a personal attack upon the Government policies of the President of the United States as applying to the United States and England.

Mr. President, it appears that this distinguished gentleman, the former Chancellor of the Exchequer, seems to assume that our administration's policies should be addressed to the benefit of England instead of that of the United States. Also, he presumes that these policies of the United States do not serve the interests of England and that for this omission it is his privilege to condemn the President of the United States.

We read, sir, his observations, which, in part, at this time must attract our attention. Said he to this English audience, in his official capacity:

> If you could have a revival in America and if President Roosevelt could come to terms with his businessmen instead of fighting all the time against their interests, the condition of the world in general would be of far greater advantage and benefit than it is.

Then, referring to America, said he:

> America is the greatest buyer in the world, and nobody in America will enter today upon any adventure until they feel confident once more that the political situation will justify them in spending any more for the encouragement of enterprise.

Mr. President, this distinguished representative of our friend the Government of England and of Great Britain appears to condemn the United States and the President of the United States because the policies of the United States, as he sees them, do not harmonize with those of certain Americans whose interests opposing to the administration he seems desirous of fostering. Judging from his remarks, his grievance is that the American doctrines do not contribute to the financial welfare of England.

Mr. President, it is a painful matter to note that eminent officials, political and personal, of different countries at large find it agreeable to pass personal comments upon the officials of this our country. Let this be understood: Whenever the Government officials of any foreign country can note any Government action on our part which affects their country, it is thoroughly legitimate for them to comment upon it and criticize or condemn it. But, Mr. President, for the officials or men of eminence of foreign countries to make personal animadversions upon the policies of America which they assume do or will affect Americans, and on these to reserve the privilege of condemning the President of the United States and his Government because his administration does not follow along the lines of their personal preferences and private profits—such, sir, is impudence, and cannot be permitted by America without immediate resentment.

In this connection, sir, let me call your attention to how this privilege has been growing. It appears, sir, that Mr. Ickes, a distinguished member of the Cabinet of the President of the United States, in a personal speech, which had nothing to do with his official relations, made some comment as to certain affairs of government or certain affairs of the administration in a foreign country as conceived by him in its effect on doctrines of democracy. The officials of one foreign country, assuming that they had a right to sit in judgment upon anybody in America and condemn anything that is of the United States, proceeded to condemn Mr. Ickes in a public declaration which went out to the world as a condemnation by the country in question of one of the renowned officials of the Cabinet of the United States of America. Following this example, when another member of the Cabinet, the Secretary of War, Mr. Woodring, in a personal speech in the State of Kansas, his home, makes allusion to conditions in certain countries which in his judgment make it necessary for us, the United States, to be on guard that we may protect our democracy, he is assailed by the ruler of the foreign country and its editors of official papers, and an attack is made upon this citizen of the State of Kansas who happens incidentally to be a member of the Cabinet. Then comes forth the declaration of the official, as reported, that these countries which it is assumed have been referred to will band together, that they may fight in a common lot to preserve their privilege as against the democracies to which this gentleman, as a citizen of Kansas, but incidentally Secretary of War, makes allusion in this personal speech.

Mr. President, we can understand these allusions as to these gentlemen, Mr. Ickes, the Secretary of the Interior, and Mr. Woodring, the Secretary of War. We may assume that the eminent heads of these different countries may have thought the allusion was to them as governments. But, sir, what can be said for an eminent official in England, a distinguished citizen, who rises before an English audience and, in an official and personal capacity, assumes to condemn the President of the United States for not conducting his administration in a way which satisfies certain Americans who, he contends, are dissatisfied with the policy of the administration, and then to state that were the President to change his policy it would inure, sir, to the benefit of the business interests of America, which now are said to hesitate to trust the President, and from that there would naturally flow to England a benefit, financial and personal?

Such a comment from such a source, for myself, I resent. I resent it as disturbing the new and revived friendship and cooperation between our nations.

I condemn the expression as of bad manners on the part of an eminent official and an eminent citizen of that country, so opposed to the natural courtesy of all English and real Britons. I suggest, if this banquet speech was humorous, that he turn for a moment to some readings of the great English Chesterfield, and note that in his observations to those to whom he was addressing himself he bade his countrymen to "beware of those who cannot discriminate between wit and rudeness."

I trust that this conduct on the part of eminent officials such as those to whom I am now referring, in their assault upon America, will come to an end upon the recognition of a more international conscience and a better international relation of friendship and international commercial cooperation. We need, for each of all nations, more discretion and less of denunciation.

I thank the Senate for allowing me to interpolate these remarks while the Neely bill is pending before this body.

PROPOSAL OF RAILROADS TO REDUCE WAGES OF EMPLOYEES

Mr. McADOO. Mr. President, will the Senator from West Virginia yield to me?

Mr. NEELY. I yield to the Senator from California.

Mr. McADOO. I desire to submit an observation concerning the discussion which took place in the Senate yesterday regarding proposed credits to be extended to railroads as provided by Senate bill 3948, recently reported by the chairman of the Committee on Banking and Currency, the Senator from New York [Mr. WAGNER].

As a member of that committee, I wish to say that when this subject was under discussion in the committee it certainly was not contemplated, so far as any part of the discussion which I heard was concerned, that the credit which it was proposed to allow the Reconstruction Finance Corporation to extend to railroads would result in an application on their part for a reduction in the wages of their employees. I certainly would not support the bill if I thought it would result in the reduction of wages of railroad employees. I think the scale of wages on the railroads is already as low as it should possibly be; and I desire now to give notice that, so far as I am concerned, I shall not vote for any measure which will, by direction or indirection, accomplish any such result.

I understand from the chairman of the committee that in view of these developments he is to have a further hearing on the bill tomorrow, when the subject will be debated and discussed, with the possible result of altering the report which has already been submitted to the Senate.

I thank the senior Senator from West Virginia for his courtesy in yielding to me.

Mr. WAGNER. Mr. President, will the Senator from West Virginia yield to me for a very brief statement in connection with the statement made by the Senator from California [Mr. McADOO]?

Mr. NEELY. Mr. President, as I shall later need some votes, I cannot risk the danger of refusing to yield to any of my friends; but I hope there will be no further interruptions until I shall have made my motion and discussed it.

Mr. WAGNER. Mr. President, the bill which was referred to the Senator from Wisconsin [Mr. LA FOLLETTE] yesterday, and has just been referred to by the Senator from California [Mr. McADOO], was introduced in my behalf during my absence by the Senator from Missouri [Mr. TRUMAN]. At that time the proposed legislation was the result of an agreement between representatives of the R. F. C., representatives of the railroad brotherhoods, and representatives of the railway associations. All agreed upon the form and substance of the legislation introduced.

The purpose of it is to bring about increased employment on the railroads, by reemploying a number of furloughed employees who really are needed, it was disclosed at the hearing, in order to keep the railroads upon a proper standard of safety and efficiency in the public interest.

At the hearing the question of the 15-percent wage reduction was not alluded to, of course, because it had not become a matter of public knowledge, and no member of the committee was informed on that subject. Other objections were made. Although the bill was pending upon the calendar, I asked our distinguished leader not to bring it up for consideration, because there were some other objections to the provisions of the bill on the part of representatives of bondholders and stockholders' committees, who desired to be heard. I felt duty bound, as did the committee, to hear them, since their rights were affected. We had a hearing last Friday morning, and as a result of the hearing we agreed to have an executive session tomorrow, Wednesday, to consider the objections raised, some of which were very important.

At the meeting tomorrow, of course, the question will be raised as to whether the proposed legislation should pass, in the face of a threat to reduce the wages of the employees of the roads. The proposed legislation is for the purpose of aiding the present employees so that their employment may be retained, and to increase employment by the reinstatement of furloughed workers.

I need not state here, I believe, in view of my record, that I will resist any effort to use the credit of the United States for the purpose of paying interest, perhaps, or something else, on a debt structure, while at the same time permit the railroads to utilize the occasion to take purchasing power out of the pockets of the wage earners by decreasing their wages.

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

Mr. WAGNER. I meant to include the chairman of the subcommittee investigating the whole railroad situation, the senior Senator from Montana, as one who had approved the proposed legislation, and of course, because of his great service in the investigation, his views were very persuasive with me as well as with the rest of the committee. I yield to the Senator.

Mr. WHEELER. Confirming what the Senator has said, I wish to give a little history of this particular piece of legislation. It was the railroad brotherhoods who first came to me and asked for certain legislation for the purpose of helping the railroads. They first suggested that a subsidy be given to the railroads during a period of time, and I stated very frankly that I would not agree to that. Then there was discussion of certain definite loans to be made to them, some of which I would not agree to; but there was an understanding afterward on the part of the railroad brotherhoods, the executives, the Senator from Missouri [Mr. TRUMAN], Representative LEA, the chairman of the House Committee, and Jesse Jones. All of us met in Mr. Jones' office, and the maximum to which I was willing to consent was that the Government would aid by making loans, with the distinct understanding that the idea was to put men to work, and that the money would not be used for the purpose of paying interest upon bonded indebtedness. That was the definite and distinct understanding on the part of everyone at the conference.

At that time nothing whatever was said with reference to wage reductions, although it was in the mind of everyone, because it had been generally discussed in the public press.

I agree with the Senator entirely; I dislike to see any wage reductions. The idea was that if we could tide the railroads over temporarily, until perhaps next fall, business conditions in this country would pick up sufficiently so that it would not be necessary to have any wage reductions. Under the present law establishing the Board of Mediation no wage reductions could possibly go into effect before next November at the very earliest unless by mutual agreement between the railroads and the railroad brotherhoods.

Mr. WAGNER. Mr. President, because our committee is not well enough informed upon the entire situation with reference to the wages of employees, I have invited representatives of the labor organizations—that is, the employees—and representatives of the railroads, together with representatives of the Reconstruction Finance Corporation, to appear before the committee tomorrow morning so that the committee may be enlightened. Based upon the facts there developed, the Committee will determine what further action will be taken.

I thank the Senator from West Virginia for yielding.

PROHIBITION OF BLOCK BOOKING AND BLIND SELLING

Mr. NEELY. Mr. President, in the language of an old, familiar hymn—

> This is the day I long have sought,
> And mourned because I found it not.

I now move that the Senate proceed to the consideration of Senate bill 153, which is Order of Business 1434 on the calendar.

The PRESIDENT pro tempore. The clerk will state the bill by its title.

The LEGISLATIVE CLERK. A bill (S. 153) to prohibit and to prevent the trade practices known as compulsory block booking and blind selling in the leasing of motion-picture films in interstate and foreign commerce.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

Mr. NEELY. Mr. President, I purpose to discuss the bill.

Mr. NEELY obtained the floor.

Mr. McNARY. A parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. McNARY. Is the motion to proceed with the consideration of the bill now pending?

The PRESIDENT pro tempore. It is. The Senator from West Virginia objected to the motion being put at this time.

Mr. McNARY. What is the parliamentary situation?

The PRESIDENT pro tempore. The motion has been made to proceed to the consideration of the bill, and the bill has been reported by title. The Senator from West Virginia is about to discuss it.

Mr. McNARY. The motion is pending?

The PRESIDENT pro tempore. It is.

Mr. NEELY. Mr. President, the importance of this bill is identical with that of the religious, the moral, and the mental instruction of the men and women and children of this country. Seventy-seven million of the American people witness at least one moving-picture performance every week in the year. Twenty-eight million two hundred and fifty thousand of these are under 21 years of age. Eleven million American children who are 13 years of age, or younger, see at least 52 moving pictures every year.

In the congested area of one of the greatest cities of the country an investigation has revealed the fact that 17 percent of the moving-picture-theater patrons are children under 7 years of age. The necessity of local freedom in the choice of films which our children are to see is indicated by an excerpt from the evidence in the record. It states the findings of the Motion Picture Research Council, which is known as the Payne Fund Studies, a social organization, as follows:

It—

The research council—

examined in a midwestern town 115 pictures as they followed one another across the screen of a local theater, week in, week out, and this is what they found: In those 115 pictures the heroes alone were responsible for 13 murders, the villains and villainesses for 30. In all, 54 murders were committed, 59 cases of felonious assault, 17 hold-ups, 21 kidnapings, to say nothing of numerous other crimes. The total of deaths by violence was 71. In short, in 115 pictures 406 crimes were actually committed and 43 additional ones attempted, making a total of 449 crimes in 115 pictures, or nearly 4 crimes per picture.

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

Mr. NEELY. I yield to the Senator from New Hampshire.

Mr. BRIDGES. I am interested, as the Senator has indicated he is interested, in the betterment of the educational amusements of the boys and girls of this country, but I wish the Senator would enlighten me as to whether there is anything in the bill he is sponsoring which would prevent the

showing of pictures of murder, kidnaping, assault, or any of the other things he has indicated. I could not find anything in the bill which would prohibit the showing of such pictures.

Mr. NEELY. Mr. President, the bill does not propose censorship, nor does it forbid the showing of pictures such as the Senator has mentioned. But if it becomes a law it will relieve exhibitors of the burden of buying them. Consequently fewer of them will appear upon the screen.

Mr. President, the proponents of the bill do not underestimate the financial strength or the mastership of parliamentary strategy of the Moving Picture Trust, which constitutes the opposition. It is my hope that the Members of the Senate will not underestimate the moral or numerical strength of the millions of fathers, mothers, preachers, priests, teachers, and social workers who, through their duly chosen representatives, have for 10 long years vainly urged the passage of the bill which is the subject of the pending motion.

This bill or one similar to it has been before every session of the Congress since 1928. A bill identical with it has been on the Senate Calendar almost continuously since June 15, 1936. Unanimous consent for its consideration has been prevented again and again by the objections of one Member of this body.

Preparatory to an analysis and discussion of the bill, Senators are most respectfully and earnestly requested to bear in mind the fact that it has the active and enthusiastic support of practically all the outstanding religious, educational, and civic organizations of the Nation, as well as those of almost every State in the Union.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from West Virginia yield to the Senator from Idaho?

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

Mr. BORAH. The Senator from West Virgina, as I understand, is now about to explain the terms of the bill. In explaining the bill I wish the Senator would keep in mind to what extent the bill affects or controls the exhibitors. I quite agree with the provisions of the bill with reference to compulsory selling, blind selling, and so forth, but I have received letters from exhibitors who contend that it affects them very materially and is not confined alone to two propositions referred to. Will the Senator bear that in mind in explaining the bill?

Mr. NEELY. Mr. President, a little later the important matter mentioned by the distinguished Senator from Idaho will be discussed.

Those who are represented by the organizations which are supporting the bill are believed to exceed half the population of the United States. It is estimated that the entire opposition does not exceed 200,000. It consists of eight corporations, commonly known as the Big Eight, or Moving Picture Trust, and those affiliated with them, or directly or indirectly dependent upon them. These eight corporations are Paramount; Metro-Goldwyn-Mayer, commonly known as Loew's, Inc.; Twentieth Century Fox; Warner Brothers; Radio-Keith-Orpheum; Universal; Columbia; and United Artists.

The following are some, and only some, of the almost innumerable national organizations that are now urging, and long have urged, the passage of the bill:

American Association of University Women.
American Baptist Publication Society.
American Federation of Teachers.
American Home Economics Association.
Association of Childhood Education.
Board of Temperance and Social Welfare, Disciples of Christ.
Catholic Boys Brigade of the United States, Inc.
Catholic Central Verein of America.
Catholic Daughters of America.
Catholic Order of Foresters.
Committee on Moral and Social Welfare, Lutheran Church in America.
Council of Women for Home Missions.
Editorial Council of the Religious Press.
Federal Council of Churches of Christ in America.
Association for Childhood Education.
Associated Film Audiences.
National Motion Picture League, Inc.
Girls' Friendly Society of the United States of America.
Knights of Columbus.
Motion Picture Research Council.
National Board of Young Women's Christian Associations.
National Congress of Parents and Teachers.
National Council of Catholic Women.
National Council of Protestant Episcopal Churches.
National Council of Young Men's Christian Associations.
National Education Association.
National Grange.
National Woman's Christian Temperance Union.
National Women's Trade Union League of America.
The National Sentinels.
United States Daughters of 1812.
Allied States Association of Motion Picture Exhibitors.

Forty-six State organizations of the National Congress of Parents and Teachers have endorsed the bill.

The following are some of the other State organizations which have endorsed it:

Independent Exhibitors, Inc., covering States of Maine, New Hampshire, Vermont, Massachusetts, and Rhode sland.
Allied Theatre Owners of New Jersey, Inc.
Motion Picture Theatre Owners of Maryland, Inc.
Motion Picture Theatre Owners of Western Pennsylvania, covering western Pennsylvania and West Virgilnia.
Allied Theatres of Michigan, Inc.
Co-operative Theatres of Michigan, Inc.
Allied Theatre Owners of the Northwest, Inc., including Minnesota, North and South Dakota, and Montana.
Allied Theatres of Illinois, Inc.
Associated Theatre Owners of Indiana, Inc.
Independent Theatres Protective Association of Wisconsin and Upper Michigan.
Independent Theatre Owners of Ohio, Inc.
Cleveland Motion Picture Exhibitors' Association.
Allied Theater Owners of Texas, Inc.
Allied Theater Owners of Louisiana.
Allied Theater Owners of Connecticut.
Allied Theater Owners of the District of Columbia.
Allied-Independent Theatre Owners of Iowa-Nebraska.
Detroit Council of Catholic Organizations.
Allied Youth of Detroit, Mich.
Society of Mayflower Descendants of Ohio.
Diocese of New York Social Service Commission.
Northern Baptist Convention, Education Department Diocese of Pennsylvania Christian Social Service and Institutions.
Pennsylvania Council of Churches.
Church of the Holy Trinity, Brooklyn, N. Y.
Massachusetts Civic League.
Motion Picture Theatre Owners of Nebraska and Western Iowa.

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

Mr. NEELY. I gladly yield to the Senator from New Jersey.

Mr. SMATHERS. Do I understand that the force of the Senator's bill is to permit a moving-picture house to select what picture it will show, instead of, as the condition exists today, being forced to take whatever picture the producer sends to the exhibitor to be shown?

Mr. NEELY. One of the objects of the bill is to obtain for the exhibitor freedom to choose the pictures his patrons desire to see, instead of accepting those which the trust insists he shall buy in blocks if he buys at all.

Mr. SMATHERS. I should like to say to the Senator from West Virginia that I heartily agree with what he says. Before I came to the Senate I was common-pleas judge in Atlantic City for 11 years. I presided over the juvenile court, and I found week after week that children on their way

home from a movie, where they had seen a gangster picture, broke into some fruit store or committed some act which was a violation of the criminal law, which brought them into the juvenile court.

Mr. NEELY. Mr. President, I thank the able Senator from New Jersey for his valuable contribution to the debate.

PURPOSES OF THE PROPOSED LEGISLATION

The bill is designed to effectuate two salutary principles of public policy which are much older than our Government. The first is that a person who buys or leases an article offered in the open market shall not be required to lease or purchase something else that he does not want as a condition precedent to his right to obtain what it is necessary for him to possess. This principle is exemplified in the provisions of section 13 of the Clayton Act against so-called tying clauses.

The second principle is that the purchaser of an article is entitled to information or the means of obtaining information concerning what he is about to buy, to the end that he may prudently choose that which will best serve his purpose and satisfy his desires. This principle is exemplified in the Food and Drugs Act, the Caustic Poison Act, and the Prison-Made Goods Act.

Senate bill No. 153 merely seeks to apply to the motion-picture business the same rules which the Congress has prescribed for numerous other industries, subject only to such modifications as the peculiarities of the motion-picture business demand.

More than 65 percent of the feature motion pictures annually released in the United States are distributed by the so-called Big Eight, which constitute the Moving Picture Trust. The Big Eight also produce the greater part of this percentage of films which they distribute. These companies in their distribution of films, in the majority of cases, require the theater operator to contract for their entire output of pictures of all kinds for a year. The operator's failure to comply with this requirement means, as a general rule, that it will be impossible for him to obtain any of the pictures produced or distributed by the trust. This is the trade practice known as compulsory block booking.

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from West Virginia yield to the Senator from Idaho?

Mr. NEELY. I yield.

Mr. BORAH. I take it it is the view of the Senator from West Virginia that if the local exhibitors were permitted to select their own films the presentation would be much better from a moral standpoint than it is when they are obliged to take whatever is sent to them?

Mr. NEELY. Mr. President, that is my contention which will be emphasized before I yield the floor.

The large companies offer most of their pictures before they are produced, without identifying them in any way excepting by numbers in the exhibition contracts, and without supplying to the theater operators any information concerning the nature of the pictures or any description of their story content which would enable the exhibitors to exercise an enlightened discretion in making their selections.

As a result of this practice local exhibitors are deprived of all exercise of discrimination in the selection of motion pictures excepting that of choosing among the blocks—the entire output—of the various producers and distributors. And since no theater can use all of the pictures released by all of the distributors, the entire playing time of every moving-picture theater is necessarily preempted by a few of the great producers. Thus, every theater is required to play all of the pictures—good, bad, or indifferent—of a few distributors and is denied the right to choose among the better pictures of all of the producers. If undesirable pictures are supplied in the blocks blindly contracted for, the exhibitors have no choice but to play them or lose their investment in them.

In 1928 extensive hearings were held by the Senate Committee on Interstate Commerce on a bill similar to Senate bill 153. In 1932 a similar bill by Senator Brookhart was favorably reported to the Senate, but this action came so late in the session that it proved impossible for the Senator to have the measure considered by this body. In 1934 the House Committee on Interstate and Foreign Commerce held a hearing on a similar bill by Representative PATMAN. In 1936 full hearings were granted all interested persons by the appropriate committees of both the Senate and the House on bills identical with the one now before the Senate. The Senate Committee on Interstate Commerce, with only one dissenting vote, favorably reported the pending bill late in the last session of the Seventy-fourth Congress; the House subcommittee reported it with an amendment to the full committee. But neither the Senate nor the House has ever voted on this measure, and neither ever will vote on it if one of the world's most powerful lobbies continues to have its way in the future as it has had it in the past about this important matter.

This brief history is recited to show that bills to prevent the unfair trade practices at which the present measure is aimed have been before the Congress for many years; that every provision of the pending measure has been thoroughly considered again and again in extended hearings which have been held by the appropriate committees of both houses; and that all interested persons have again and again been afforded ample opportunities to testify for or against the bill.

The Senate committee, in making its favorable report at the present session without a dissenting vote, manifestly acted on the hearings held in 1936 and on the comprehensive printed record of the hearings before the House committee.

Let us now discuss the bill very briefly from the standpoint of its application to the consumer, the industry, and labor, and let us answer some of the arguments that have been urged against it.

THE CONSUMER

Relief for the independent theater owners, although important, is not the principal object of the bill. It is primarily a consumer's bill, and the benefits which will accrue to the theater operators by virtue of its passage will be merely incidental to the greater benefits which will be enjoyed by the public at large.

The numerous organizations, previously named, which represent millions of consumers, have demonstrated the fact that the public exhibition of motion pictures has a direct bearing on the health, morals, education, and character building of the people and is, therefore, affected with a public interest. This conclusion is supported by the decision of the Supreme Court of the United States in the case of *Mutual Film Corporation* v. *Ohio Industrial Commission* (236 U. S. 230, 240), upholding the Ohio censorship law.

These various organizations have emphasized the need of community control—or at least freedom of choice—in the matter of motion-picture entertainment. Some well-meaning persons have advocated Federal regulation of the production of motion pictures. A few have even advocated Federal censorship. But the majority of the proponents have concluded that the abolition of compulsory block booking and blind selling would pave the way for all necessary reforms by making it possible for exhibitors, in leasing films, to have a decent regard for the opinions and preferences of their patrons, instead of being mere tools of the distributors, bound to show in their theaters whatever pictures Hollywood sees fit to supply them.

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

Mr. NEELY. I yield.

Mr. BORAH. The bill does not attempt in any way to regulate the industry, does it?

Mr. NEELY. In no manner whatsoever.

Mr. BORAH. It merely prohibits two specific practices which now prevail.

Mr. NEELY. That is correct.

Mr. BORAH. The Senator is of the opinion that by prohibiting those two practices we can eliminate from the business what is now most objectionable.

Mr. NEELY. The able Senator has, with his usual accuracy, stated my opinion.

Mr. President, it is encouraging to know that the representatives of national, regional, and local welfare, religious, and educational associations, with a combined membership of many millions, have reached an agreement on a minimum of legislation desired to accomplish their purpose. All that the supporters of the bill ask of Congress is that the local exhibitor, who deals with the public, be made a free agent, so that he may respond to the expressed wishes and preferences of his patrons concerning his programs, and may be held accountable if he fails to satisfy their demands. In existing circumstances the exhibitor has a complete defense when criticized for showing undesirable pictures, or with failure to show the pictures his patrons especially want to see. His stock reply is that he had to buy his pictures in a block, without knowing what the block contained; and he has no choice but to exhibit whatever pictures the producers send him under his contracts, or lose his investment in them.

Members of the Congress have received a booklet in opposition to the bill which contains, among other things, the contention that the phrase "community freedom" is a mere catchword, which does not take into account the facts of the situation. This assertion is contrary to everyday observation and experience, and to the preponderance of the evidence in the record. It is gratuitous slander to charge or intimate that the eminent organizations which are supporting the bill have been misled into working for the enactment of the proposed law by an empty slogan. For example, the Motion Picture Research Council, of which Dr. Ray Lyman Wilbur—a former member of the Cabinet, and now president of Leland Stanford University—is the head, has made a painstaking study of the practices of the motion-picture business, and has given its unstinted support to the bill. Men like Dr. Wilbur, and organizations like the Motion Picture Research Council, are not stirred into action by catch phrases or meaningless words.

The widespread interest of the hosts who are urging the passage of the bill is easily understood. It springs from the manifest bearing of motion-picture entertainment on education and character development, to which the able Senator from New Jersey referred a few moments ago. To obtain the best results from the important moving-picture medium of education, it must be made responsive to local conditions and requirements. Hollywood, however well-meaning, cannot be allowed to prescribe education, culture, and morals for the Nation.

Education is a growth and development from within requiring freedom of selection in every field. This freedom of selection is essential to a sound educational philosophy. Despite the fact that motion pictures are designed to be merely entertaining they undoubtedly exercise an incalculable influence on men, women, and children, regardless of their age.

Senators are urged to read the clear and convincing statements by Mr. Walter Lippmann and Dr. Henry James Forman set out in the committee report. These are but two of the many expressions of opinion by thoughtful persons contained in the Senate and House hearings which show the urgent need for this legislation in order to restore "community freedom" in the matter of motion-picture entertainment. These demands are not met by the argument that motion-picture exhibitors are not better qualified than the distributors to say what kind of pictures are best suited to the different neighborhoods and communities. Even if it be granted that the exhibitor, no less than the distributor, has his ear attuned to the cash register, it nevertheless is true that the exhibitor is the point of contact between the industry and the public and is the one and the only one on whom the pressure of local public opinion can be brought to bear.

That public opinion will be exerted on the exhibitors is not in the realm of controversy. As shown by the record, public opinion on this subject is now well organized. Many of these groups classify pictures on the basis of suitability for different kinds of audiences. This is particularly true of the Legion of Decency, sponsored by the Catholic Church, which, for example, lists pictures as being suitable for all classes, suitable for adults only, or objectionable for all classes. Subject to a small cancelation privilege allowed by some distributors, exhibitors must accept the pictures released, however they are classified. Under the provisions of the bill, theater owners will not have to buy class B or class C pictures, and if they do buy them and the community objects, the blame can be properly and effectively placed on the exhibitors, where it belongs.

THE INDUSTRY

Opponents of the measure have propagated the idea that the bill will necessitate revolutionary changes in industrial practices. This, of course, is the familiar argument made against every measure designed to regulate any form of activity in the public interest. However, the mere fact that this cry has a familiar sound does not justify us in ignoring it. But the odds are overwhelmingly against the occurrence of such dire results. Under the provisions of the bill the total amount of business done by the producer-distributors will not be reduced but its quality will be improved. The same number of theaters will operate for the same number of days a year and the same number of hours a day. For every poor picture which an exhibitor rejects under the privilege conferred by the bill he must contract for a good picture to take its place; and, since it is axiomatic that good pictures will earn more at the box office than poor ones, the natural result should be materially to increase the aggregate earnings of the industry. On this point the report of the committee says:

> The only change will be that exhibitors will have the opportunity to make up for the poor pictures which they do not purchase by obtaining good pictures not hitherto available to them. To illustrate, if the bill is passed an exhibitor who heretofore bought the full blocks of Paramount-Metro-Fox will be free to buy only half of the pictures included in those blocks and he will be enabled to purchase half of the blocks of RKO, Warner Bros., and Universal.
>
> In brief, the bill, if enacted, will result in giving additional play dates and extended running time to the good pictures at the expense of the bad, and the public will gain not only from the vital standpoint of selectivity but because of the added incentive on the part of all producers to make better pictures due to the restoration of competitive conditions.

Section 4, which requires the furnishing of a synopsis of every picture offered for lease, has been criticized on the score that it will compel producers to follow literally a script and prevent them from making changes in the actual "shooting" of a picture in the interest of its artistry and entertainment value. In pressing this point spokesmen for the industry have exceeded the bounds of legitimate argumentation and have gone so far as to warn independent exhibitors favoring the bill that under its provisions the distributors will be compelled to sell pictures one at a time after they have been completed and after a screening or preview has been had at exchange headquarters. The reason assigned for this astonishing conclusion is that the producer-distributors will not be willing to risk the penalties prescribed in the bill for supplying an inaccurate synopsis. The purpose of this propaganda is, of course, to stampede small exhibitors, who could not afford to travel long distances to the exchange centers to do business in this way, into opposition to the bill. In the light of the bill itself, the threat becomes empty and vain, inasmuch as it provides a penalty only for failure to furnish a synopsis or for making statements therein that are knowingly false. With 12 months in which to accustom themselves to the new order, it would seem that the great motion-picture industry, with so many accomplishments to its credit, could arrange to supply advance information concerning the pictures it proposes to deliver under its contracts without knowingly incorporating false statements therein.

Mr. BORAH. Mr. President, the practice to which the Senator refers does really create monopoly, does it not?

Mr. NEELY. Of course, that is its tendency; but the bill is not primarily an antimonopoly bill. If it were made such, new elements of opposition would immediately appear. From my point of view, additional difficulties would be highly undesirable at this time.

Mr. President, let me say, in passing, that the opposition is under the leadership of two very lovable gentlemen, who

are the most effective legislative agents the world has ever seen. They are the distinguished Will Hays and Charlie Pettijohn, of Indiana. If they could be induced to work for the general welfare of the people of the United States as skillfully, industriously, and effectively as they have worked to prevent the passage of this anti-block-booking bill during the last 10 years, each of them would be worth more than $1,000,000 a year to the Government.

Mr. President, the conclusion is irresistible that the determination of the Big Eight to prevent the passage of this bill is based on their fear that it will weaken the monopolistic control which they now exert over all branches of the industry. This bill does not touch on all phases of this control—it is not primarily an antitrust measure—but it does strike at a system whereby the Big Eight are forcing the exhibitors to take whatever they may see fit to produce, passing on to the exhibitors—and the public—the losses incident to their own failure to forecast the public's taste. Also it strikes at a system which enables the Big Eight virtually to monopolize the playing time of the theaters and thus to exclude independently produced pictures from the screens. This playing time being preempted by the blocks of a few of the major producers—the blocks of any three or four of the major companies being sufficient to accomplish this in most cases—and it being impossible to augment the blocks under contract save by contracting for an additional block or blocks, it follows that each theater in its dealings is restricted to a comparatively few distributors. And since the Big Eight control between 85 and 90 percent of the quality product, most theaters are wholly dependent on these major companies for their pictures.

The remedy for this state of affairs is described in an article by Mr. Walter Lippmann, which is reprinted in the committee report, pages 3 and 4:

Effective reform depends, it seems to me, on a clear understanding of what, given the American traditions of freedom and the variety of American tastes and American moral standards, reform ought to aim at. I would rest reform of the movies on this basic principle: That audiences shall have greater freedom to choose their pictures and that artists and producers shall have greater freedom to make pictures. Within the obvious limits of the ordinary law about obscenity and provocation to crime, the best regulation would be that exercised by the customers at the box office of a theater. The best way to improve the movies would be to open the door to intense competition by independent and experimenting producers.

* * * * * * *

Now, this is not the system under which the movies operate. Among them the control of the means of production is concentrated in a few giant corporations; the means of distribution are monopolized in part by direct ownership of strategic theaters and for the rest by monopolistic contracts known in the trade as block booking and blind selling. In substance they means that a local theater owner must rent his pictures in large blocks sight unseen. As a result, he has not real choice as to what he will exhibit. The result of that is that his customers can exercise no real choice.

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

Mr. NEELY. I yield to the Senator from New Jersey.

Mr. SMATHERS. Does the Senator's bill make any provision to prevent the big movie producer from coercing the little exhibitor into taking pictures? For instance, take the leading movie house in Atlantic City; suppose they notified the producer that they would not take or show any more gangster pictures, would not the producer refuse to send them any more pictures at all?

Mr. NEELY. Mr. President, that is precisely what would happen now.

But if the bill is passed an exhibitor can thereafter buy a great picture like Snow White and the Seven Dwarfs without having to buy a block of inferior pictures which he does not want.

Mr. VANDENBERG. Mr. President, may I ask the Senator a question?

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

Mr. VANDENBERG. The Senator has paid a very appropriate and justified tribute to Snow White and the Seven Dwarfs and pictures of that character. I take it he feels that that type of motion picture is well worth encouraging and justifying?

Mr. NEELY. Mr. President, in my opinion the production of pictures such as the Senator has mentioned should be encouraged without stint or limit.

Mr. VANDENBERG. What interests me and what I want to ask the Senator about is this: Mr. Walt Disney, the producer of Snow White and the Seven Dwarfs, states in a letter under date of April 11 that he could not have produced his picture under the terms of the Neely bill.

Mr. NEELY. Will the Senator from Michigan tell us the reasons assigned for that statement?

Mr. VANDENBERG. I think that anything that Mr. Disney may say on this subject is worthy of thoroughly fair consideration.

Mr. NEELY. The Senator's observation has my unconditional concurrence. Unfortunately, Mr. Disney's prosperity is largely at the mercy of the Moving Picture Trust, and this fact should be borne in mind in appraising his statements concerning the bill which the trust has vigorously opposed for 10 years.

Mr. VANDENBERG. There are several points he makes, and if the Senator will bear with me I think that perhaps this letter may be considered to typify an intelligent criticism of the bill. I am not offering it as my own, because I am entirely open-minded on it, but I think perhaps Mr. Disney's comments, from one end to the other of his letter, might well invite the Senator's response.

Mr. NEELY. Although I shall gladly yield now for the purpose which the Senator has indicated, I nevertheless believe that I shall answer some of the arguments contained in Mr. Disney's letter as I proceed with my discussion. Therefore, I should prefer to withhold comment on Mr. Disney's objections until a later hour, if that would be entirely agreeable to the Senator from Michigan.

Mr. VANDENBERG. The course suggested by the Senator is quite agreeable to me.

Mr. NEELY. Mr. President, a reassuring reflection for anyone whose confidence in the bill may have been shaken by the extraordinary efforts of the Motion Picture Trust lobby is that the practice of block booking is freely ignored by the major companies whenever it is to their advantage to do so. Thus, the finest pictures often are not included in the blocks leased to the exhibitors. Whenever a company has a picture which has box-office possibilities above the run of its current releases and wants to realize therefor a higher film rental than is specified in the block contract, it designates such picture a "special" and leases it singly and on a separate contract form. According to my information, among the excellent pictures distributed in this way are Dinner at Eight, Grand Hotel, Cavalcade, State Fair, Lost Horizon, Midsummer Night's Dream, and Snow White and the Seven Dwarfs.

Again, compulsory block booking is not observed by the producer-distributors in their own theaters. In fact, in the operation of these, the producer-distributors observe the very policies which this bill would make available to all theaters. That is to say, they do not require their own theaters to play the poorer pictures which they release. Most downtown first-run theaters contract for pictures on the basis of a change a week, and when, for example, such a theater runs Snow White for 7 weeks, it follows that six pictures of lower quality will not reach the screen in that theater. If these discards are not good enough to be shown in the producer-owned houses, they ought not to be forced on the subsequent-run independent theaters.

LABOR

Since 1922, when the Motion Picture Producers & Distributors of America, Inc., the Hays association, was formed, there has been a steady increase in the prevalence and severity of compulsory block booking, and a decline in the number of pictures produced and released. Numerous producing and distributing concerns have ceased to do business; and five of the Big Eight companies are the successors of, or have in some way absorbed and extinguished, two or more formerly competing producing and distributing companies.

Aside from the Big Eight there are only three small concerns distributing a limited number of inferior pictures on a national scale. The production of feature pictures has shrunk from 852 in 1926, and 871 in 1927, to 460 in 1936.

Without attempting to resolve the mooted question whether this shrinkage is attributable solely or mainly to the practice of compulsory block booking, the fact remains that the passage of this bill, as stated by Mr. Lippmann, will open the screens to new independent productions and encourage new producers and distributors to enter the business. Under conditions of free and open competition, production and employment should increase. Certainly there is no such tendency under existing monopolistic control.

Moreover, under present conditions, with the industry in the control of a few dominating executives of the Big Eight, there is an ever-present seductive temptation to drain off the earnings of the companies in the form of excessive executive salaries and bonuses, and to economize in times of business recession at the expense of the low-salaried minor employees. Apparently such a condition exists at this time.

The following is an Associated Press dispatch clipped from the Ohio State Journal for March 11, 1938:

SLUMP FORCES FILMS TO CUT ALL PAY ROLLS—$80,000,000 COST PARED BY ONE-THIRD TO AID MOVIE BUSINESS

HOLLYWOOD, CALIF., March 10.—The business slump in the Nation's box offices may be short lasting, but Hollywood is preparing for an uphill pull this spring and summer.

* * * * * * *

The movies are determined to slice a big chunk from their production overhead. Indications today were at least one-third will be whacked off the $80,000,000 annual pay roll.

Hollywood spends $130,000,000 a year to make movies.

By cutting personnel, by laying off lesser players, and, importantly, by eliminating the very expensive pictures from schedules, the movie industry hopes to reduce this figure to $100,000,000.

In the several studios the permanent personnel—workers continuously employed whether production is at a high or low ebb—has been drastically reduced.

RKO studio admits it has laid off 500 in recent weeks, half of whom were permanent employees. MGM studio has laid off a similar number. There have been lay-offs at Warner Studio, too.

Many players dropped

Many players, whose options called for big boosts, are being dropped. Fifty girls, members of the MGM training school for a year, were not retained. Also left out were several players, including Edna May Oliver.

Let us contrast this treatment of the humble studio workers and minor players with the following figures, taken from an article in the February 2 issue of Variety, a motion-picture trade paper, which shows that 14 executives of Loew's, Inc., one of the eight major motion-picture companies, were given salary and bonus contracts aggregating $4,712,400 annually. The recipients of this stupendous sum are as follows:

Louis B. Mayer, vice president	$956,000
Nicholas G. Schenck, president	430,000
Hunt Stromberg, producer	380,000
Mervyn LeRoy, producer	380,000
Arthur Loew, vice president	332,000
Sam Katz, producer	324,000
Edward Mannix, producer	316,000
David Bernstein, treasurer	284,000
Al Lichtman, vice president	276,000
J. Robert Rubin, vice president	264,000
Bernard Hyman, producer	249,000
L. A. Weingarten, producer	196,000
Benjamin Thau, producer	171,000
Harry Rapf, producer	154,400

Mr. BORAH. Mr. President, just how are those salaries fixed, and by whom?

Mr. NEELY. The salaries undoubtedly are fixed by the board of directors, which presumably consists of all or at least some of these 14 officials. However, I do not know who the directors are.

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

Mr. NEELY. I yield.

Mr. POPE. Because of noise in the Chamber, I could not hear who received these salaries.

Mr. NEELY. Fourteen officials of Loew's, which is one of the eight members of the Movie Trust. These 14 officials are said to have received in salaries and bonuses about 31 percent of the net income of the corporation.

Mr. VANDENBERG. Mr. President, how does the Senator's bill deal with that phase of the problem?

Mr. NEELY. It does not deal with the question of fixing salaries at all. If the Senator from Michigan had been present throughout the discussion, he would know that my observations on this point are relevant, because I am now discussing the bill with particular reference to labor.

Mr. President, in view of the salaries which the officials of Loew's, Inc., are paying themselves under their own contracts, I digress long enough to say that if Captain Kidd should return to this greedy old world and fall into the hands of these gentlemen, he would not only lose his hoarded treasure but he would be most fortunate if he escaped with his cutlass and his shirt. [Laughter.]

Mr. TOWNSEND. Mr. President——

The PRESIDING OFFICER (Mr. BONE in the chair). Does the Senator from West Virginia yield to the Senator from Delaware?

Mr. NEELY. I yield.

Mr. TOWNSEND. Has the Senator there the amount of stock which these 14 officials own?

Mr. NEELY. No; I do not know how much stock these officials own.

According to Mr. P. J. Wood, secretary of the Independent Theater Owners of Ohio, the $4,712,400 paid to these 14 executives of Loew's may be contrasted with $2,250,000 which, as reported by the Central Casting Bureau in Hollywood, was all that was paid to approximately 23,000 extras during the period of a full year.

But the executives of Loew's, Inc., are not the only ones in the movie industry who are receiving unconscionable salaries and bonuses at the expense of the investors, the studio workers, the exhibitors, and the theater-going public. A long list of the executives in other companies who last year received salaries and bonuses in excess of $100,000 is printed in the Mstion Picture Herald for January 15, 1938. In this list are the following:

Darryl Zanuck	$260,000
Roy Del Ruth	238,000
Walter Wanger	216,000
Pandro Berman	202,000
Harry Cohn	182,000
Sol M. Wurtzel	163,000
Samuel Briskin	157,000
B. P. Shulberg	135,000
Joseph Schenck	130,000
Sidney R. Kent	122,000
David Selznick	115,000
Jack Cohn	104,000

It is manifest that the real fear of the opponents of the bill is not that it will injure the companies affected by it or inflict loss on the employees thereof, but that it may bring about a condition of competition under which excessive executive salaries may have to be slashed in the interest of economy and operating efficiency.

Mr. President, in behalf of more than 28,000,000 people who are under 21 years of age and who see at least one moving picture every week in the year, in behalf of more than 11,000,000 children who are 13 years of age or under and view not less than 52 motion pictures every year, in behalf of higher standards of entertainment and education for all the people, I most earnestly plead for the passage of the bill. When voting on it, let us remember the welfare of the little ones, to whom the moving pictures of the future will be either a blessing or a curse. Let us rescue them from the evil influences of the crime, the violence, and the vulgarity films to which they are now subject.

In our effort to protect them and promote their welfare and increase their happiness by improving the motion pictures which will vitally affect them to the end of their days,

let us find inspiration in the following stirring lines, with which every Senator is familiar:

An old man, going a lone highway,
Came, at the evening, cold and gray,
To a chasm, vast and deep and wide,
Through which was flowing a sullen tide.
The old man crossed in the twilight dim;
The sullen stream had no fear for him;
But he turned, when safe on the other side,
And built a bridge to span the tide.
"Old man," said a fellow pilgrim near,
"You are wasting strength with building here;
Your journey will end with the ending day,
You never again will pass this way;
You have crossed the chasm, deep and wide,
Why build you this bridge at eventide?"

The builder lifted his old gray head:
"Good friend, in the path I have come," he said,
"There followeth after me today
A youth, whose feet must pass this way.
This chasm, that has been naught to me,
To that fair-haired youth may a pitfall be.
He, too, must cross in the twilight dim;
Good friend, I am building this bridge for him."

Senators, by passing the bill, let us build an indestructible bridge over all the gray, deep, dangerous chasms of moving-picture land upon which those who are following us and who are dearer to us than all the other treasures of earth may safely journey to sublimer heights of joyous entertainment and beneficent instruction than we have ever known.

Mr. President, I now yield to the Senator from Michigan, and, after I have attempted to answer him, I shall yield the floor.

Mr. VANDENBERG. Mr. President, I do not wish to seem to even rise in opposition to the bill because I have no convictions respecting it. I am merely struggling for information regarding it. I have the greatest respect for Mr. Disney, which the able Senator from West Virginia apparently shares. Rather than attempt to read his letter at the moment, I suggest that I hand it to the able Senator from West Virginia, and that in the course of the afternoon he comment on its contents as the debate proceeds.

Mr. NEELY. Mr. President, I shall be glad to do that; and I sincerely thank the Senator from Michigan for the interest which he has manifested in the bill, which is admittedly of great importance.

Mr. VANDENBERG. 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:

Adams	Donahey	La Follette	Radcliffe
Andrews	Duffy	Lewis	Russell
Austin	Ellender	Lodge	Schwartz
Bailey	Frazier	Logan	Schwellenbach
Bankhead	George	Lonergan	Sheppard
Barkley	Gerry	Lundeen	Shipstead
Berry	Gibson	McAdoo	Smathers
Bilbo	Gillette	McCarran	Smith
Bone	Glass	McGill	Thomas, Okla.
Borah	Green	McKellar	Thomas, Utah
Bridges	Hale	McNary	Townsend
Brown, Mich.	Harrison	Maloney	Truman
Bulkley	Hatch	Miller	Tydings
Bulow	Hayden	Minton	Vandenberg
Burke	Herring	Murray	Van Nuys
Byrd	Hill	Neely	Wagner
Byrnes	Hitchcock	Norris	Walsh
Capper	Holt	O'Mahoney	Wheeler
Caraway	Hughes	Overton	White
Chavez	Johnson, Calif.	Pepper	
Copeland	Johnson, Colo.	Pittman	
Dieterich	King	Pope	

The PRESIDING OFFICER. Eighty-five Senators having answered to their names, a quorum is present.

The question is on the motion of the Senator from West Virginia [Mr. NEELY] that the Senate proceed to consider Senate bill 153.

Mr. POPE. Mr. President, I wish to ask the Senator from West Virginia a question or two. I shall read two or three paragraphs from a letter and a telegram which I have received with respect to the subject under consideration and shall ask the Senator to comment on them. First, I will read from a letter written to me by one of the independent operators in my State. He said:

The so-called Neely bill intended to regulate the film-producing companies in their selling policies will, if it is passed, put out of business every small-town motion-picture-theater operator, of which I am just one.

We'll admit that the present contract is a tough one for the most of us—the independent exhibitors—but if we have to operate under the Neely bill, it just can't be done, for illustration:

I use three to four pictures (features) per week and have to do my booking 2 or 3 months in advance in order that I am assured of getting the pictures when I need them. Under the Neely bill I would have to preview each picture separately and buy the same way, and to do this I would have to practically live in Salt Lake City.

I should be glad to have the Senator comment on that statement.

Mr. NEELY. Mr. President, the author of the letter has probably stated what someone has convinced him is true. But as a matter of fact, it is false. There is nothing in the bill to prevent an exhibitor from buying a full block of pictures if he wishes so to do. The only change which the bill makes in this matter is that of freeing the exhibitor from the producing trust which compels him to buy 50 pictures that he does not want in order to get 10 good ones that he considers it important to obtain. There is no foundation for the statement that pictures must be previewed one at a time. The Moving Picture Trust will have 12 months after the bill becomes a law in which to set its house in order and supply proper descriptions of the pictures it intends to produce. A few of the large concerns have already begun to announce in advance the character of some of the pictures which will be offered in the future.

So the fear expressed by the gentleman in the letter which has just been read is groundless, and he should apprehend no danger.

Mr. POPE. Mr. President, I am glad to have the statement of the Senator, because I know he has made a careful study of the matter, and, naturally, we are anxious to know whether the bill would seriously affect independent exhibitors. Let me read to the Senate a sentence from a telegram which I received from an independent operator in my State, and I should like to have the Senator comment on it if he will:

There is a bill pending before the House known as the Neely bill which is supposed to be a relief from block booking. As an independent exhibitor I see no reason for the passage of this bill. I, as you know, have two houses in Weiser and two in Boise. It may not be so bad for Weiser but in Boise the opposition or the circuit could, if this bill passes, outbid us and take all the outstanding pictures and leave us or the independent exhibitors the cheaper pictures.

Does the Senator see anything in his bill that would bring about that sort of a situation?

Mr. NEELY. No; of course it would not happen at all. That is another conclusion which is based on opposition propaganda that has flooded the country. For years the publicity and lobbying facilities of the Moving Picture Trust have been busily and successfully engaged in creating false impressions concerning the effect of the bill.

Mr. POPE. Then the Senator's opinion is that, so far as the small independent exhibitors are concerned, there is nothing in his bill that will interfere with them or affect their business?

Mr. NEELY. Not only is there nothing in the bill that will interfere with their business, but if it becomes a law it will add to their liberty and their freedom of choice; and by enabling them to buy the good pictures they desire instead of taking the gangster and murder and other crime pictures they do not want, their prosperity will be increased.

Mr. COPELAND. Mr. President, I am very anxious to be enlightened with respect to this matter. I have had a great deal of correspondence on the subject. I hold in my hand two packages of letters, one representing the group for the bill and the other the group against the bill. If the Senator will bear with me for just a moment, I wish to ask him a question which was raised by the New York State Federation

of Women's Clubs. I have several letters from branches of this great organization, and each one of the letters I have received from the federation indicates that ample hearings have not been held on the subject. One correspondent even went so far as to write a letter in longhand. Running through all these letters is the charge that there have been no ample hearings on the bill. Is there any foundation for such a charge?

Mr. NEELY. Mr. President, will the Senator yield for an answer to that question?

Mr. COPELAND. I yield.

Mr. NEELY. Ten years ago the Committee on Interstate Commerce of the Senate conducted exhaustive hearings on a bill similar to the one now before the Senate. In later years extensive hearings were held on what was known as the Brookhart bill, which was identical with the bill now under consideration.

In 1936 a subcommittee of the Committee on Interstate Commerce of the Senate, consisting of Senator Metcalf, Senator Davis, Senator Benson, Senator Barkley, and me, conducted extensive hearings on a bill identical with the one now before the Senate. There is not the difference between them of a dot over an "i" or a cross of a "t." The printed record of the Senate committee's hearings on that bill consists of 219 pages. A copy of that record I now present to the Senator from New York for inspection.

Mr. COPELAND. The hearings were held on February 27 and 28, 1936.

Mr. NEELY. That is correct. However, the hearings were on a bill identical with the one which is now before the Senate.

In March 1936 a subcommittee of the Committee on Interstate and Foreign Commerce of the House of Representatives conducted hearings on a bill identical with the one before us. A printed copy of the record of those hearings, which I now exhibit to the Senate, contains 526 pages.

So the statement which has been broadcast to the Nation that there has never been any hearing on this bill is not only misleading but it is utterly, willfully, and preposterously false.

Mr. COPELAND. Of course, Mr. President, I am sure the Senator does not mean to say——

Mr. NEELY. I shall anticipate the Senator by stating that I do not mean that the Senator's constituents have spoken or written falsely about the matter. But I do say that the propaganda machine which is responsible for the letters written by good people such as those to whom the Senator refers has broadcast falsehoods without number in this case.

Mr. COPELAND. I like the statement the Senator has just made better than his first statement.

Mr. NEELY. Of course, I did not mean my censure to apply to the persons who write the letters.

Mr. COPELAND. Mr. President, I am sure I can enter this discussion with an unbiased mind, because the fact is that I do not know anything about the subject. I am seeking enlightenment. That is the reason I rose to my feet. However, I desire to ask the Senator from West Virginia what he has to say with respect to the following letter, which comes from the Staten Island Better Films Council. It so happens that I am acquainted with a number of the women whose names are found on the letterhead. They are outstanding citizens of my city.

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

Mr. COPELAND. I yield.

Mr. NEELY. Will the Senator inform us whether the women to whom he refers are employed by the moving-picture trust, or have any connection with any of the members of what is commonly known as the Big Eight?

Mr. COPELAND. I will say in most positive terms that the women referred to are all housewives. They are not employed by anybody. Their chief job politically is bossing their husbands, and that is a very proper function for any wife to pursue.

Mr. NEELY. Mr. President, no married man will ever dispute that statement.

Mr. COPELAND. Then we are on common ground. [Laughter.]

The letter to which I refer, which is brief, says:

It is rather surprising to read Senator MATTHEW NEELY's criticism of motion pictures. Since the League of Decency—

As I understand, this group is a branch of an organization known as the League of Decency.

Since the League of Decency entered the field, as well as many preview committees, there has been a great improvement in motion pictures. The work now being done is part of an educational program which is doing much to create a desire for better pictures and a taste for the books on the library shelves from which the pictures are taken.

Should Senator NEELY's bill pass, it would bring great discouragement to the community groups and their committees, who have seriously given time and earnest thought to the work of encouraging good pictures.

Mr. BORAH. Mr. President——

Mr. COPELAND. I yield to the Senator.

Mr. BORAH. I have been interested in the bill because I think the motion-picture industry is one of the greatest industries the genius of man has ever contributed to the pleasure and education of the people. I think we ought to make haste slowly in dealing with the industry by legislation. However, I cannot see how it is possible to injure the industry, from the standpoint of the community, by prohibiting compulsory block booking and blind selling, which the bill undertakes to prohibit.

If the letters to which the Senator refers went further, and stated wherein prohibiting such practices would injure the industry or would lessen its value to the public, they would be very conclusive with me.

I do not want to injure the industry. The industry has built itself up in such a marvelous way and to such a standard of value that I should not want to vote for any legislation which would injure it. The evils which the bill seeks to eliminate are, to my mind, great evils; and the bill, as I understand, is limited in its terms to their elimination. I want no censorship of motion pictures; and I find no censorship in preventing compulsory block booking or blind selling.

However, the two things sought to be prohibited by the bill receive almost universal condemnation, except for those who are particularly benefiting by such practices. How could the League of Decency say that prohibiting the two practices referred to would injure the industry?

I have received a number of such letters; and I do not know on what basis the charge rests that the prohibition of compulsory block booking and blind selling would harm the industry.

It seems to me there ought to be some local independent judgment operating upon the system. There is none now. It does not make any difference what picture the independent exhibitor or the community desires. The community, or the exhibitor, may not have that picture unless all the others in the block are taken along with it. Such a practice is undemocratic and un-American. I cannot see that it is any benefit to the industry.

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

Mr. COPELAND. I yield.

Mr. WHITE. I am prompted by the remarks of the Senator from Idaho to observe that, in my opinion, when we talk so much about block-booking, we are talking about something which does not exist to anywhere near the extent which is commonly believed. My understanding is that it appears from a decision by the Federal Trade Commission, in a matter which the Commission was examining, that out of a total of 47,288 contracts concluded with exhibitors in nine exchange territories, covering about one-third of the country from the attendance standpoint, 34,773, or 73 percent, were for less than one-quarter of the pictures included in the blocks to which they related. Only 16 percent were for more than half the pictures in a block, and less than 4 percent were for the entire block.

I repeat, Mr. President, that I think we have raised up a straw man, and we are talking about something which does

not effectually exist. I think the figures which I have just read demonstrate that fact.

Mr. NEELY. Will the Senator again inform us from what he has just read? My attention was diverted at the moment.

Mr. WHITE. I am reading from a letter—and possibly I shall later read further from it—written by a former Governor of my State who is now associated with the motion-picture industry. I may say that throughout his entire residence in my State he was a leader in religious and civic movements. The letter was written by him to a lady in Newtonville, Mass., commenting on an article which appeared in the Journal of the American Association of University Women. The letter discusses this whole problem at some length. I think it is the clearest statement of facts and the clearest analysis of some of the problems involved that I have seen anywhere, and it may be that, later in the day, I will read from it at greater length.

Mr. NEELY. Mr. President, will the Senator state the name of the author of the letter?

Mr. WHITE. His name is Carl E. Milliken.

Mr. NEELY. By whom is he employed?

Mr. WHITE. He is part of the moving-picture industry.

Mr. NEELY. Does the Senator know by what member of the trust he is employed, whether by Metro-Goldwyn-Mayer or some other member?

Mr. WHITE. I do not know whether or not he is employed by that member of the trust. I said I did not know definitely what his employment is, but it is in connection with the moving-picture industry.

Mr. NEELY. In other words, he is speaking as a paid advocate for the Moving Picture Trust?

Mr. WHITE. It is true he is a paid employee, I take it, of someone in the moving-picture industry, but he is also a man of character in whose statements and in whose purposes I have supreme confidence.

Mr. BORAH. Mr. President, knowing Governor Milliken as I do, I will join the Senator from Maine in his statement. But does the Governor undertake to defend block-booking and blind selling?

Mr. WHITE. I do not know that I desire to answer that question quite as the Senator puts it. Mr. Milliken denies there is block-booking to any such extent as we have been led to believe by proponents of this legislation.

Mr. BORAH. We all have had letters from independent producers all over the country complaining about that, and even if the practice is not so great as has been stated, yet it certainly is a great evil. I cannot see any harm, but I can see much good, in prohibiting it, even if it is not so great an evil.

Mr. NEELY. Mr. President, if compulsory block-booking does not exist, can any Senator suggest how anyone in the moving-picture business could be injured by our making it unlawful?

Mr. BONE. Mr. President, will the Senator from New York yield?

Mr. COPELAND. I yield the floor.

Mr. BONE. I wish to ask the Senator a question about a letter he read to the Senate. I am curious about the statements or the complaints of the women's organization in the letter which was written to the Senator from New York. Is it their contention that the regulations set up in the bill would interfere in any way with attempts at the moral regulation of the business so far as the character of pictures is concerned? Is it the contention that if this bill were enacted there could not be proper regulation of the moral tone involved in the moving-picture industry? What is the basis of the contention of the League of Decency, as I believe the name is?

Mr. COPELAND. If the Senator will pardon me, I will answer somewhat at length.

Some years ago, when I was a director of a corporation owning a moving-picture house, I had the conviction that the pictures which were shown were utterly improper to present to young people. I am not now speaking in any prudish manner. I am not speaking about the appeal of sex and the other matters which might be thought of. But I remember I used to be scolded for reading dime novels. I never read a dime novel when I was a boy that began to be so torrid or lurid or far-reaching in its implications as some of the Wild West shows I have seen on the screen. I presume those Senators who were brought up in the atmosphere of the West perhaps would not be affected quite in the same way that I was.

Mr. BORAH. Mr. President, the Wild West pictures which are presented by the movies are sermons on morality compared with the movie scenes which come from a different section of the country.

Mr. COPELAND. Very well; I will admit that. I have not been pleased with some of the night club scenes that have been on the screen. But this is what I have in mind: My judgment is that the quality of the pictures shown today has vastly improved compared to the pictures of 6 or 8 or 10 years ago.

Some of my correspondents appear to feel that we are setting up here a censorship, that we are going to regulate by law what perhaps ought to be regulated by public opinion. I merely judge that from what they write me. One of them makes the statement that we are entering into censorship. I inquire of the Senator from West Virginia, is there any truth in that? Could this bill, in any sense, be called a censorship of the moving pictures?

Mr. NEELY. No; there is no censorship suggested in the bill.

Mr. BONE. Mr. President, I understand this bill leaves the relationship purely to contract between the producer and the exhibitor. Am I correct in that understanding?

Mr. NEELY. The Senator is absolutely correct.

Mr. COPELAND. Block booking is not now quite the evil that it was.

Mr. NEELY. Of course not. No one will deny that there has been improvement in the moving-picture business, just as there has been in many other branches of industry. But there has not been enough. When the inspection of 115 consecutive pictures in one theater shows an average of almost four crimes to a picture, there should be more, much more, improvement.

Mr. COPELAND. Here is a letter worth listening to. It is written in longhand by a lady in Buffalo, N. Y. She is a member of one of the film councils, of which we have many in New York, which were formed some years ago because of an aroused sentiment regarding the inferior quality and the doubtful taste of pictures presented. This is what this lady says, under date of April 25 of this year:

> For the last 10 years I have been interested in better pictures and have taken part in a Nation-wide educational program which is effectively directing popular attention to motion pictures of the finer type, and in helping young people form the habit of discriminating selection. I therefore urge that a hearing be had before the so-called Neely bill is brought to a vote.

I can quite understand, I may say to the Senator, that we have a new generation, not every 30 years but almost every couple of years. We work out some great reform and we think we have settled a certain problem, but in 2 or 3 years we find the same argument proceeding that was effective in correcting the abuse 2 or 3 years previously. The abuse creeps in again, and we have to combat it over and over again. Even though there are great volumes of hearings, it is quite evident that there are many persons who are really interested who know nothing about the contents of those books.

This lady goes on:

> I am greatly aware of the improvement in public taste during the past several years and in the pictures which have been provided by the industry. The successful pictures are decent, are fine in technique, and are full of human interest. The days are past when they could be considered demoralizing or obscene. About 3 percent are dull and silly, but even they are clean.
>
> After reviewing 468 pictures a year for 8 years I do not feel that the moral or artistic quality of pictures can be improved by an act of Congress, nor that by abolishing the trade practice of block

booking and blind buying of pictures it will be possible for the community to keep out of local theaters pictures which are objectionable to the cultured classes.

I urge a hearing so that the provisions may be thoroughly analyzed and an intelligent conclusion reached with reference to it.

Here also is a letter from the American Federation of Musicians of New York, affiliated with the American Federation of Labor, saying:

The provisions of the bill are impractical, would drive many small exhibitors out of business, and could only be complied with by a few financially strong moving-picture producers, and therefore have the tendency to monopolize the industry. The result of the bill would be vicious and unfair, therefore the American Federation of Musicians protests against its enactment and respectfully requests your opposition to same.

Mr. President, I have read these letters perhaps to inform myself more than to inform the Senate. At another time I may read from the other package.

It is very apparent that there are in my State many persons who in no sense can be considered to be affiliated with the industry, selfishly interested, or having in mind any other thought than the promotion of the public good. I have presented these letters in order that the Senator from West Virginia may make any reply which he regards as suitable. It may well be, of course, that no reply is needed; but I have placed these matters before the Senate for the consideration of all concerned.

Mr. NEELY. Mr. President, let me respond very briefly to the observations made by two or three Senators.

One urged that there is at the present time no block booking of a serious nature. Let me answer that contention by reading three or four excerpts from the hearings.

Here is one written from Myers' Criterion Theater, Moorestown, N. J., dated February 19, 1936:

I am operating a theater in a Quaker locality and am compelled to buy pictures that I must pay for and am unable to play. I can substantiate this statement with letters from different organizations in our town.

It is certainly my hope that the Pettengill bill—

Which is identical with the pending bill—

will be reported favorably by your committee and enacted into law.

The next letter is from Baltimore, Md., written by the manager of the Rex Theater, dated February 21, 1936:

As victims of the coercive and unbusinesslike practice of block booking, we ardently urge the passage of the Pettengill and Neely bills, which provide the only method of relieving the helpless exhibitor from complusory, cat-in-the-bag blind booking. Such unjust and unfair practices prevent the exhibitor from conscientiously giving his public what it demands * * * block booking is, therefore, detrimental to business and shows inclinations toward monopolism.

We will, indeed, be ever grateful for any assistance you can lend toward the passage of this much-needed legislation.

Sincerely,

E. G. CHOMET, *Manager.*

Here is a letter from W. A. Cassidy, of Midland, Mich., dated February 21, 1936:

Please be informed that I have positive proof in the person of Hon. FRED L. CRAWFORD, Representative, that he was given the impression that no small-town exhibitors favored the Pettengill bill for the reason that it would increase their cost of films. This is a deliberate misrepresentation of facts created by Will Hays and his henchmen working night and day for the producers to defeat this bill. This business is today and always has been a highly specialized racket—

There is a reference here to Mr. Hays which I do not approve, and accordingly will not read.

Let exhibitors buy films suited to their particular locality as provided in this bill, and they will willingly be responsible to their public.

Today we are criticized and have our choice of the run of the mill or nothing. I operate six theaters and will gladly pay increases if necessary rather than exhibit nine bad ones to get one good one. Unless the Pettengill bill passes—

That bill is identical with the so-called Neely bill—

the only other recourse would be to lock the doors until we receive justice. It's pretty hard to get enough to go that far to protect these long-abused rights.

Have spent much time addressing clubs and in every instance received 100 percent cooperation in Midland, Alma, and Saginaw, but it is tough to beat the producers-Hays machine. Your cooperation is earnestly solicited.

Yours truly,

W. A. CASSIDY.

Since the Senator from Maine [Mr. WHITE] read a communication written by Mr. Edward C. Milliken, of the Motion Picture Producers and Distributors of America, I have learned that Mr. Milliken is in the employ of the so-called Hays organization. I now have in my hand a letter from Mr. Milliken, which is written on stationery which bears the legend "Will H. Hays, president; Carl E. Milliken, secretary."

Naturally, everybody who is on Mr. Hays' pay roll is against this bill. If he were not, he would be without a job before sundown.

Let me read another of these complaints.

Here is one from White River Junction, Vt., dated February 16, 1936, signed by A. M. Graves, speaking for the Lyric Theater:

At this time I wish to inform you, as forcefully as possible, regarding certain pertinent facts relating to the trials and tribulations of a struggling country exhibitor.

I hope that the Senator from Idaho [Mr. POPE], who read a letter from one of the independents in his State, will lend me his ears while I read the following:

The major film-producing companies, at the present time, force me to buy all of their pictures—good, bad, and indifferent. I am unable to select those which I would prefer to show to my patrons but under the present set-up, in order to get these pictures, I am obliged to take a lot of poor ones, which I never would show if I had my way about it.

Another thing which adds to the burden of an exhibitor is the fact that the large producing organizations also force us to take more short subjects and more issues of the news reel than we can rightfully use; this, in order to secure the good pictures which we desire to run.

I operate five small towns in New Hampshire and Vermont and hereby request you to use your influence to see that these wrongs are righted.

Very truly yours,

A. M. GRAVES.

I commend that letter to my distinguished friend, the able Senator from New Hampshire [Mr. BRIDGES], who has shown some interest in the bill. This exhibitor states that he operates theaters in New Hampshire.

Mr. POPE. Mr. President will the Senator yield?

Mr. NEELY. Yes.

Mr. POPE. What is the Senator's information as to how the operators, those who conduct the theaters over the country, feel about this bill?

Mr. NEELY. Until some letters were read by Members of the Senate today, I did not recall that any independent theater owner or operator in the United States was opposed to the bill.

Mr. TOWNSEND. Mr. President——

The PRESIDING OFFICER (Mr. THOMAS of Utah in the chair). Does the Senator from West Virginia yield to the Senator from Delaware?

Mr. NEELY. As soon as I read two more excerpts from the record I shall be glad to yield.

Here is one from Stoneham, Mass., written by William H. McLaughlin, of the Stoneham Theater:

As a small-town exhibitor, I wish to take this opportunity of bringing to your attention the fact that the Pettengill bill is the only solution of the monopolistic practices of the eight major producing companies of motion pictures.

I cannot buy pictures that I feel should be shown in my town, knowing the likes and dislikes of my patrons. I have to buy the entire block, shorts and news reels included, from the companies with whom I deal. This condition exists because of the monopoly which the majors have of the film market.

The only hope the independent exhibitor has of overcoming this situation is legislation, and the Neely-Pettengill bill, which should effectively put a stop to compulsory block booking and blind buying, is a necessary move toward economic salvation for the little fellow in the industry.

Very truly yours,

WILLIAM H. MCLAUGHLIN.

Mr. F. J. McWilliams, who operates the Porthea Theater in Portage, Wis., asked for the picture known as Magnificent Obsession. Here is what Mr. Sol Resnick, branch manager

of the Universal Film Exchange, Inc., in a letter dated February 17, 1936, says in response to the request for the privilege of purchasing or leasing that picture alone:

DEAR MR. MCWILLIAMS: I have your communication of February 15 regarding Magnificent Obsession.

Beg to reply we are not interested in selling one picture, and under the circumstances will not sell Magnificent Obsession without our current product.

In other words, "unless you buy our block."

At the same time, the only terms we can accept on this picture is percentage.

Mr. President, this block-booking practice on the part of the Moving Picture Trust is just as iniquitous as it would be for one of the great motor corporations in the State of my distinguished friend from Michigan [Mr. VANDENBERG] to say, "We will sell you a Chevrolet car," for example, "but you cannot buy it unless you also buy a Buick, a Cadillac, and a Pontiac, and our Delco lighting system."

This compulsory block booking on the part of the Movie Trust is just as infamous as the practice would be on the part of a country storekeeper to say to a housewife who wanted to buy a pound of coffee, "You cannot buy a pound of coffee unless you buy a sack of flour, 10 pounds of sugar, and a pound of bacon." I submit that there is no law of equity or common sense by virtue of which anyone can justify block booking.

Mr. BRIDGES. Mr. President, will the Senator from West Virginia yield?

Mr. NEELY. I yield.

Mr. BRIDGES. Earlier in the day I asked the distinguished Senator from West Virginia about the moral aspects of the bill, and I am asking for information, because, as I understand, since I have been a Member of the Senate at least, no hearings have been held on the bill, although hearings were held previously on an identical bill. I am interested in the objectives which the bill is purported to seek.

I ask the distinguished Senator whether there is anything in the bill, looking from the moral standpoint, which would prohibit questionable scenes in any moving picture. I cannot find any such provision.

Mr. NEELY. Directly, no; indirectly, yes. If the owner of the moving picture theater in the Senator's home town learns that the Senator and a few persons like him are opposed to pictures that show train robberies and cold-blooded murders, the exhibitor will cease to purchase that kind of pictures. He will purchase the kind the Senator and his associates and other patrons desire. If this bill becomes a law it will enable the local exhibitor to choose the picture which the Senator wants and refuse the one he does not want. Unless the bill is enacted, the moving-picture operator in the Senator's home town will have no choice; he must purchase the gangster pictures, and pay for them, whether he uses them or not. In order to get half a dozen good pictures which he desires, he must buy 20 or 30 which he does not need or want, and which the Senator and his family would not have exhibited in the community if they had their way about it.

Mr. BRIDGES. In that connection, has the Senator lost sight of the certain human element which may influence most operators of motion-picture theaters, who are probably in the business in order to make money? Many of the pictures, we will say, which attract the attention of the crowd perhaps contain some exciting scenes, sexy scenes, or something of the kind, and might not the reaction of the individual conducting the theater be to pick out the pictures which contain such scenes in order to make more money?

Mr. NEELY. That is true, Mr. President, if the moral sentiment and tone in the Senator's community is so low that the people desire to regale themselves by witnessing the vulgarity, sex, and crime pictures. Of course, there is nothing that can be done about that so far as this bill is concerned. But if the moral sentiment in the Senator's community is what I believe it to be and what I know his to be the public will not demand, or desire, pictures which incite children to rob banks and trains, and commit murder. The moral standard of the community, if this bill becomes a law, will be the ruling factor in the selection of pictures. The choice is now made in Hollywood, or by the bankers in New York, who control the facilities by which the pictures are made. I want the choice left to the responsible people of Idaho and New Hampshire and West Virginia and the various other States of the Union.

The PRESIDING OFFICER. The question is on the motion of the Senator from West Virginia [Mr. NEELY] that the Senate proceed to the consideration of Senate bill 153.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

Adams	Donahey	La Follette	Radcliffe
Andrews	Duffy	Lewis	Russell
Austin	Ellender	Lodge	Schwartz
Bailey	Frazier	Logan	Schwellenbach
Bankhead	George	Lonergan	Sheppard
Barkley	Gerry	Lundeen	Shipstead
Berry	Gibson	McAdoo	Smathers
Bilbo	Gillette	McCarran	Smith
Bone	Glass	McGill	Thomas, Okla.
Borah	Green	McKellar	Thomas, Utah
Bridges	Hale	McNary	Townsend
Brown, Mich.	Harrison	Maloney	Truman
Bulkley	Hatch	Miller	Tydings
Bulow	Hayden	Minton	Vandenberg
Burke	Herring	Murray	Van Nuys
Byrd	Hill	Neely	Wagner
Byrnes	Hitchcock	Norris	Walsh
Capper	Holt	O'Mahoney	Wheeler
Caraway	Hughes	Overton	White
Chavez	Johnson, Calif.	Pepper	
Copeland	Johnson, Colo.	Pittman	
Dieterich	King	Pope	

The PRESIDING OFFICER. Eighty-five Senators having answered to their names, a quorum is present.

ESTATE OF F. GRAY GRISWOLD

Mr. TOWNSEND submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 7104) for the relief of the estate of F. Gray Griswold, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment as follows: In lieu of the matter stricken out by the Senate amendment insert the following: "plus accrued earnings,"; and the Senate agree to the same.

JOHN MILTON,
JOHN G. TOWNSEND, Jr.,
Managers on the part of the Senate.

THOMAS O'MALLEY,
ALFRED F. BEITER,
Managers on the part of the House.

The report was agreed to.

INVESTIGATION AND CONTROL OF VENEREAL DISEASES

The PRESIDING OFFICER (Mr. THOMAS of Utah in the chair) laid before the Senate the amendments of the House of Representatives to the bill (S. 3290) to impose additional duties upon the United States Public Health Service in connection with the investigation and control of the venereal diseases, which were, on page 1, line 7, to strike out "(a)" and insert "Sec. 4a"; on page 2, line 6, after the word "purposes", to insert "of sections 4a to 4e, inclusive"; on the same page, line 10, after "1939", to insert "not exceeding"; line 11, after "1940", to insert "not exceeding"; line 12, after "1941", to insert "not exceeding"; line 13, to strike out "of the 10 fiscal years" and insert "fiscal year"; in line 14, to strike out "needed" and insert "deemed necessary"; in the same line, after "purposes", to insert "of sections 4a to 4e, inclusive"; in line 16, to strike out "(b)" and insert "Sec. 4b"; in line 18, to strike out "4 (a)" and insert "4a"; in line 20, after "Rico", to insert "Virgin Islands"; on page 3, line 6, to strike out "(c)" and insert "Sec. 4c"; line 17, to strike out "4 (a)" and insert "4a"; in line 20, to strike out "(d)" and insert "Sec. 4d"; in line 24, after the word "purposes", to insert "of sections 4a to 4e, inclusive", and on page 4, line 1, to strike out "(e) This act" and insert "Sec. 4e. Sections 4a to 4e, inclusive, of this act."

Mr. LA FOLLETTE. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

ERADICATION OF MEDITERRANEAN FRUITFLY

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 842) to provide for an investigation and report of losses resulting from the campaign for the eradication of the Mediterranean fruitfly by the Department of Agriculture, which were, on page 2, line 8, to strike out "December 31, 1937" and insert "March 15, 1939", and on the same page, line 13, to strike out "not later than January 10, 1938" and insert "as soon thereafter as practicable."

Mr. ANDREWS. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

RELIEF OF PERSONS ERRONEOUSLY CONVICTED IN UNITED STATES COURTS

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 750) to grant relief to persons erroneously convicted in courts of the United States, which was to strike out all after the enacting clause and insert:

That any person who, having been convicted of any crime or offense against the United States and having been sentenced to imprisonment and having served all or any part of his sentence, shall hereafter, on appeal or on a new trial or rehearing, be found not guilty of the crime of which he was convicted or shall hereafter receive a pardon on the ground of innocence, if it shall appear that such person did not commit any of the acts with which he was charged or that his conduct in connection with such charge did not constitute a crime or offense against the United States or any State, Territory, or possession of the United States or the District of Columbia, in which the offense or acts are alleged to have been committed, and that he has not, either intentionally, or by willful misconduct, or negligence, contributed to bring about his arrest or conviction, may, subject to the limitations and conditions hereinafter stated, and in accordance with the provisions of the Judicial Code, maintain suit against the United States in the Court of Claims for damages sustained by him as a result of such conviction and imprisonment.

SEC. 2. The only evidence admissible on the issue of innocence of the plaintiff shall be a certificate of the court in which such person was adjudged not guilty or a pardon or certified copy of a pardon, and such certificate of the court, pardon, or certified copy of a pardon shall contain recitals or findings that—

(a) Claimant did not commit any of the acts with which he was charged; or

(b) that his conduct in connection with such charge did not constitute a crime or offense against the United States or any State, Territory, or possession of the United States or the District of Columbia, in which the offense or acts are alleged to have been committed; and

(c) that he has not, either intentionally, or by willful misconduct, or negligence, contributed to bring about his arrest or conviction.

SEC. 3. No pardon or certified copy of a pardon shall be filed with the Court of Claims unless it contains recitals that the pardon was granted after applicant had exhausted all recourse to the courts and further that the time for any court to exercise its jurisdiction had expired.

SEC. 4. Upon a showing satisfactory to it, the Court may permit the plaintiff to prosecute such action in forma pauperis. In the event that the court shall render judgment for the plaintiff, the amount of damages awarded shall not exceed the sum of $5,000.

Mr. MALONEY. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

PROHIBITION OF BLOCK BOOKING AND BLIND SELLING

The PRESIDING OFFICER. The question is on the motion of the Senator from West Virginia [Mr. NEELY] to proceed to the consideration of Senate bill 153.

The motion was agreed to; and the Senate proceeded to consider the bill (S. 153) to prohibit and to prevent the trade practices known as compulsory block-booking and blind selling in the leasing of motion-picture films in interstate and foreign commerce, which was read, as follows:

Be it enacted, etc., That the methods of distribution of motion-picture films in commerce whereby (a) exhibitors are required to lease all or a specified number of an offered group of films in order to obtain any individual desired film or films in the group, a trade practice sometimes known as "compulsory block-booking," and (b) films are leased before they are produced and without opportunity for the exhibitor to ascertain the content of such films, a trade practice sometimes known as "blind selling," are hereby declared to be contrary to public policy in that such practices interfere with the free and informed selection of films on the part of exhibitors and prevent the people of the several States and the local communities thereof from influencing such selection in the best interests of the public, and tend to create a monopoly in the production, distribution, and exhibition of films. The Congress finds and declares that such methods and practices adversely affect and constitute a burden upon commerce, and it is the purpose of this act to prohibit and to prevent such methods and practices in commerce.

SEC. 2. For the purposes of this act, unless the context otherwise requires—

(1) The term "motion-picture film" or "film" means all motion-picture films (whether copyrighted or uncopyrighted), including positive and negative prints, and copies or reproductions of such prints, which films contain photoplays or other subjects and are produced for public exhibition: *Provided*, That the term shall not include films commonly known as "news reels" or other films containing picturizations of news events.

(2) The term "to lease" includes the making of a license agreement, contract, or any type of agreement whereby a film, the distribution of which is controlled by one of the parties, is to be supplied to and exhibited in a theater owned, controlled, or operated by the other party.

(3) The term "person" includes an individual, partnership, association, joint-stock company, trust, or corporation.

(4) The term "distributor" includes any person who engages or contracts to engage in the distribution of motion-picture films.

(5) The term "exhibitor" includes any person who engages or contracts to engage in the exhibition of motion-picture films.

(6) The term "commerce" means commerce between any State, Territory, or the District of Columbia and any place outside thereof; or between points within the same State, Territory, or the District of Columbia but through any place outside thereof; or within any Territory or the District of Columbia.

For the purposes of this act (but in no wise limiting the definition of commerce) a transaction in respect of any film shall be considered to be in commerce if the film is part of that current of commerce usual in the motion-picture industry whereby films are produced in one State, leased for exhibition in other States, and distributed to them through local exchanges in the several States, the films circulating from the exchanges and between the various exhibitors. Films normally in such current of commerce shall not be considered out of such commerce through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this act. For the purpose of this paragraph, the word "State" includes Territory, the District of Columbia, and foreign country.

SEC. 3. (1) It shall be unlawful for any distributor of motion-picture films in commerce to lease or offer to lease for public exhibition films in a block or group of two or more films at a designated lump-sum price for the entire block or group only and to require the exhibitor to lease all such films or permit him to lease none; or to lease or offer to lease for public exhibition films in a block or group of two or more at a designated lump-sum price for the entire block or group and at separate and several prices for separate and several films, or for a number or numbers thereof less than the total number, which total or lump-sum price and separate and several prices shall bear to each other such relation (a) as to operate as an unreasonable restraint upon the freedom of an exhibitor to select and lease for use and exhibition only such film or films of such block or group as he may desire and prefer to procure for exhibition, or (b) as tends to require an exhibitor to lease such entire block or group or forego the lease of any number or numbers thereof, or (c) that the effect of the lease or offer to lease of such films may be substantially to lessen competition or tend to create a monopoly in the production, distribution, and exhibition of films; or to lease or offer to lease for public exhibition films in any other manner or by any other means the effect of which would be to defeat the purpose of this act.

(2) It shall be unlawful for any person knowingly to transport or cause to be transported in commerce any motion-picture film which is leased, or intended to be leased, in violation of subdivision (1) of this section.

SEC. 4. It shall be unlawful for any distributor of motion-picture films in commerce to lease or offer to lease for public exhibition any motion-picture film over 2,000 feet in length unless such distributor shall furnish the exhibitor at or before the time of making such lease or offer to lease a complete and true synopsis of the contents of such film. Such synopsis shall be made a part of the lease and shall include (a) an outline of the story, incidents, and scenes depicted or to be depicted, and (b) a statement describing the manner of treatment of dialogs concerning and scenes depicting vice, crime, or suggestion of sexual passion. It is the purpose of this section to make available to the exhibitor sufficient information concerning the contents of the film and the manner of treatment to enable him to determine whether he desires to select the film for exhibition and later to determine whether the film is fairly described by the synopsis.

If a motion-picture film which has been leased in commerce is substantially different from the synopsis hereinabove required, whether in respect of the outline or the manner of treatment, the exhibitor may cancel the lease as to such film without liability for breach of contract and may recover all damages suffered by

him because of such difference, or he may retain the lease and recover damages as for a breach of warranty.

SEC. 5. (1) Every person who violates section 3, or who fails to furnish the synopsis required by section 4 or knowingly makes any false statement in such synopsis, shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine of not exceeding $5,000 or by imprisonment for not exceeding 1 year, or by both such fine and imprisonment in the discretion of the court.

(2) The several district courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act, and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition, the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition, and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises. Whenever it shall appear to the court before which any such proceeding may be pending that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned whether they reside in the district in which the court is held or not, and subpenas to that end may be served in any district by the marshal thereof.

SEC. 6. If any provision of this act is declared unconstitutional or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of the act and the applicability of such provision to other persons and circumstances shall not be affected thereby.

SEC. 7. This act shall become effective 12 months after its enactment.

Mr. BORAH. Mr. President, I assume that the authors of this measure rely for their authority to legislate on the subject upon the interstate-commerce clause of the Constitution. I wish to ask a question. Has there been any discussion of the legal questions whether or not the terms of the bill bring it within the provision of the Constitution? I have read some views and I still have some unsettled views on the constitutional question. I have no doubt, of course, that the commerce clause applies, but have the terms of the bill brought us under the clause?

Mr. NEELY. Mr. President, let me invite the attention of the able Senator from Idaho to the report of the committee, which contains a thorough discussion of the constitutionality of the bill. That discussion is entitled, "Memorandum in re the constitutional basis of the Neely-Pettengill bill to prohibit compulsory block booking and blind selling."

The memorandum says:

This memorandum is filed on behalf of the National Motion Picture Research Council. Its purpose is to show that there is a clear constitutional basis upon which a statute for the eradication of compulsory block booking and blind selling may be rested if the Congress concludes on the facts before it and an appraisal of the public needs that these practices are evils which ought to be stopped.

Mr. BORAH. I take it that the basis upon which the claim is made is that these moving pictures are produced, leased, and shipped from State to State and thus make use of the channels of interstate trade?

Mr. NEELY. That, in my opinion, is the only basis for congressional action.

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

Mr. NEELY. I yield.

Mr. BARKLEY. I notice in section 3 the following language:

It shall be unlawful for any distributor of motion-picture films in commerce to lease or offer to lease for public exhibition films in a block or group of two or more films.

And so forth. I understand one of the complaints which has been made by those who sponsor the bill is the requirement that a moving-picture theater or exhibitor is required to take a contract for a large number of pictures in advance, without knowing what they are, which constitutes a block. I notice that the minimum in the bill is two. It just occurred to me that two is really a very small number. I do not see why there would be any particular harm in selling or offering for sale a block of two pictures. If a producer had only two pictures, it would be a very easy matter to describe them to the exhibitor so that he would know what he was going to get. If the exhibitor was going to get 30 or 40 pictures blindly, he might not know what he was going to get. It is proposed to make it an offense to offer for sale as few as two pictures in a group. It just struck me that that number, two, is too small. What is the Senator's reaction to that?

Mr. NEELY. Mr. President, in my opinion a prospective purchaser ought to be permitted to buy any article which is offered in an open market without being required to take some other article which he does not want as a condition precedent to his right to purchase what he desires. There is the same reason for objecting to the requirement that one must purchase at least two pictures that there is to the requirement that one must buy an entire block of from 40 to 60 pictures made by one of the large concerns.

The contention and the belief of the proponents of the measure is that if the people of the community want to see David Copperfield, for instance, there ought to be some way that that picture could be obtained without the theater owner being required to buy some other picture that no one in the community desires.

Mr. BARKLEY. I appreciate that. I do not know anything about the moving-picture business, I am frank to say. I do not know anything about the methods of distribution. I do not even get to go to the moving-picture theaters as often as I should like to. However, it seems to me that anyone with two moving pictures for sale would be able to describe those pictures in sufficient detail to enable the exhibitor to know whether he wanted them or not.

There might be circumstances—and I am dealing only in possibilities—under which the ability to produce one or the other of a group of two pictures would depend on the ability to sell both.

If the pictures are sold before they are actually made, before producers and actors go out on the sand lot and make them, or in any other place where the pictures are produced, as for example out on the sand dunes of California to make it appear that they are being taken somewhere in the deserts of India, or wherever the locale of the picture is, the producers have to figure on their ability to sell the pictures not only to one theater but to a large number. No one would produce a picture of any sort simply for the purpose of producing it in a single theater anywhere. There would not be any money in it, and unless there is money in it they are not going to produce the picture.

I am wondering if the Senator has not made the number a little low. I am simply asking for information.

Mr. NEELY. Mr. President, the Senator from West Virginia does not think so, but if the Senate thinks there ought to be a slight increase in number, I shall not object to a vote on the question.

Mr. BARKLEY. I am frank to say that I do not know whether the number ought to be changed or not; but it struck me that the evil complained of does not consist in the fact that any producer offers for sale two pictures and says to the exhibitor, "Unless you can take both of them you cannot have either one of them." That may be an evil, but if it is an evil it pertains to a large number that constitutes a real block; not to a couple of pictures. I am not sure-footed on the thing myself, I will say to the Senator, but it seems to me that no great amount of evil will come from the offering of two pictures of any kind to an exhibitor with the statement that "unless you take both of these pictures I cannot sell one of them. I have to produce two of them before I know whether I can produce one or not. I have to have a market for the two before I can produce one."

I am offering that suggestion to the Senator for his consideration.

Mr. NEELY. Mr. President, I still assert that in my opinion one who enters the open market ought to be allowed to purchase one article that he does want without having

to purchase some others that he does not want. If one goes to the Senator's State of Kentucky to buy a thoroughbred race horse, he ought not to be made to buy an old broken-down cow as a condition precedent to the purchase of the horse.

Mr. BARKLEY. I will say that no one in Kentucky who is a producer of thoroughbred horses deals with any old broken-down cows. They have no such animals on the place. The situation would be marred by having an old broken-down cow as a contrast to a thoroughbred Kentucky horse. So the analogy is not perfect.

Mr. NEELY. It may not be perfect; it may not even be reasonably good. But the Senator, with his usual alertness of mind, knows what I am trying to emphasize; that is, that no one ought to be compelled to buy something he does not want before he can purchase something that he needs or desires.

Mr. BARKLEY. Let me ask the Senator a question on another branch of the subject. My questions demonstrate my total ignorance of the practices and habits in the field of motion pictures.

Mr. NEELY. If the Senator will pardon me, I would not permit any of his enemies to say that he is ignorant about anything; but if the Senator wishes to slander himself, I must not object.

Mr. BARKLEY. It has been stated that the bill, if enacted, would put out of business such pictures as those which are produced by Walt Disney; for example, Mickey Mouse. Such productions are harmless. They are not very educational, but they are not injurious.

Mr. NEELY. Does the Senator refer to what are called "shorts"?

Mr. BARKLEY. I have been told that the effect of the bill would be to put out of business productions of that sort. Is the Senator able to answer whether or not that is true?

Mr. NEELY. The Senator from West Virginia is able to answer. The Senator from Kentucky undoubtedly refers to what are commonly known as "shorts."

Mr. BARKLEY. "Shorts?"

Mr. NEELY. They are known as short films, or in common conversation as "shorts."

Mr. BARKLEY. I do not know. That may be the technical name under which they go, and probably it is. They are merely fill-ins before and after the feature picture at a theater.

Mr. NEELY. Yes; that is true. Such films as shorts are exempted from the provisions of the bill, because it provides that it shall not apply to films which are not more than 2,000 feet in length. The so-called "shorts" are much less than 2,000 feet in length.

Mr. VANDENBERG. Mr. President, will the Senator answer the Disney comments in the letter which I handed him?

Mr. NEELY. I shall gladly try.

Mr. President, in the letter which was handed me by the Senator from Michigan the first objection which Mr. Disney makes appears to be the following:

> I consider that the passing of this legislation would impose a great hardship on the motion-picture industry and, with special reference to short-subject producers like ourselves, would result in making it impossible for many to continue in business because of the added difficulties that would confront the producers.

The answer to that objection is found in the bill itself. It excludes films which are not more than 2,000 feet in length. That provision would protect all so-called short subjects, like those to which Mr. Disney refers in the first paragraph.

Mr. Disney says further:

> All short subjects are produced in "series." Our Mickey Mouse and Silly Symphony cartoons are produced and released in series of 13 subjects each. We attempt to carry out a schedule under which one subject is released every 2 weeks.
>
> Under present conditions an independent producer of good short subjects has great difficulty in getting a commensurate return for his product, and the profit margin in producing and distributing short subjects today, to the independent producer, is so narrow that it has caused a great lack of good short product on the market.
>
> Short subjects distribution costs to the independent producer are extremely high, because of the fact that each separate picture of a series entails all the handling, servicing, billing, and collection of accounts by a distributor, as does each separate feature picture. Yet the rentals, by comparison, are only a small fraction of those secured for feature pictures. This amount of work and effort necessarily makes distribution costs high on short subjects. Distribution costs for short subjects range from 35 to 50 percent of the gross theater rentals, with the 50 percent the rule and the 35 the exception. Out of the independent producer's share he must pay costs of prints and production.

The answer to this objection by Mr. Disney is that he has entirely misconceived the application of the bill, because the bill does not touch the so-called short subjects to which he refers.

Mr. Disney further says:

> If the distributor were required to sell each short subject singly, the cost of sales would be greatly increased and the result would be still less returns to the independent producers. In either event this much seems certain: The passage of the Neely bill would mean the departure of Mickey Mouse and the Silly Symphony cartoons from neighborhood and small-town theaters.

As a careful reading will show, the bill was not drafted for the purpose of controlling the so-called short subjects. The main object of the bill is to prohibit two nefarious practices regarding the full-length pictures which are shown on the screens of almost every theater in the United States. I do not believe that the bill would be interpreted to interfere with the selling of the short subjects. But if there is any doubt about the matter, I should not object to an amendment to clarify the bill in that particular.

Mr. VANDENBERG. If the Senator will refer to the last page of the Disney letter, I think he will find another type of objection.

Mr. NEELY. Mr. Disney says:

> While we are primarily short-subject producers, we have successfully produced and released our first feature length picture, entitled "Snow White and the Seven Dwarfs," which represents an outlay of approximately one and one-half million dollars, including print costs. This motion picture, during the 3 years of its production, was in the nature of a very hazardous venture in a new field. If a synopsis were compulsory, I am certain that it would be very injurious to the box-office value of such pictures. If we had known before entering into the production of Snow White and the Seven Dwarfs that we would have to meet the synopsis requirement, it is very doubtful that our company would have ventured into this hazardous undertaking.

Of course, that is Mr. Disney's opinion. He does not say his organization would not have produced Snow White and the Seven Dwarfs. My guess is that it would have produced it. Ample experience has shown that Mr. Disney made a wise choice, and no wise exhibitor would have failed to manifest an interest in purchasing Snow White and the Seven Dwarfs, one of the greatest pictures of all time.

Mr. VANDENBERG. To what extent would the synopsis requirement have affected that particular picture, for example?

Mr. NEELY. In my opinion, to no greater extent than it would affect any other picture of similar length and variety of action.

There is no good reason why one should require 3 years to give a reasonable general statement or synopsis of the story content of a picture even as complicated as the one which has made Mr. Disney immortal.

Mr. VANDENBERG. Would such a general statement meet the requirement for a synopsis?

Mr. NEELY. In my opinion, it would. It would be necessary only for the producer to give a statement which would be construed by the courts to furnish the exhibitor reasonable knowledge of the character and the treatment of the picture which he was about to buy.

Mr. VANDENBERG. When the Senator takes his seat, will he be good enough to locate the provision of the bill which exempts "shorts"? Three of us have read the bill twice, and are unable to find it.

Mr. MINTON. It is in section 4, on page 5, line 13.

Mr. NEELY. I am much obliged to the able Senator from Indiana for his assistance. May I now read the provision into the RECORD? It is as follows:

> SEC. 4. It shall be unlawful for any distributor of motion-picture films in commerce to lease or offer to lease for public exhibition any motion-picture film over 2,000 feet in length unless such distributor

shall furnish the exhibitor at or before the time of making such lease or offer to lease a complete and true synopsis of the contents of such film.

So the bill, on its face, exempts the short films to which Mr. Disney refers in his letter.

Mr. VANDENBERG. Does not that exemption apply solely to the synopsis requirement?

Mr. NEELY. Yes.

Mr. VANDENBERG. The rest of the bill applies to all films, regardless of exemption.

Mr. NEELY. Yes; there is no exemption with respect to the other features of the bill.

Mr. MINTON. The objection offered by the Senator from Michigan might well be met by adding, on page 2, in line 21, in the proviso, the provision that the requirement shall not apply to short subjects of 2,000 feet in length or less, according to the definition in the bill.

Mr. NEELY. I am willing to accept that amendment.

Mr. VANDENBERG. I know very little about the subject, but it seems to me that the "shorts" are selling under a different selling necessity than the full-length pictures.

Mr. NEELY. Mr. President, I appreciate the suggestion and cooperation of the Senator from Michigan. In my opinion, his suggestions are worthy of both serious and sympathetic consideration.

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

Mr. NEELY. I yield to the Senator from North Dakota.

Mr. FRAZIER. I have a letter from a small-town theater owner in my State, in which he mentions the picture known as Snow White and the Seven Dwarfs, which has been mentioned in the discussion. He says:

Several days ago a film salesman called and offered Snow White and the Seven Dwarfs, which is a very good production. I am willing to show this production and my patrons are asking for it. The salesman advised that if I wish to secure "Snow White" it will be necessary to buy 42 other pictures. My playing time is contracted for by four other producers, and, accordingly, I am forced to pass up Snow White and the Seven Dwarfs.

Mr. NEELY. I hope that all Members of the Senate heard the Senator from North Dakota read the very pertinent statement in the letter which he has just brought to the attenion of the Senate. It tells the experience of almost every one of from twelve to fourteen thousand independent theater operators throughout the United States, in their efforts to buy good pictures from members of the Moving Picture Trust without taking a block of other pictures that are not wanted in the community.

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

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

Mr. POPE. I have a letter from a moving-picture operator in Idaho in which he says, after naming the various producers of pictures, that only one, the United Artists, sells the pictures by title. All the others sell by number. He indicates that if he buys the pictures according to certain numbers, then they switch the numbers or switch the pictures without his knowing anything about it, at the same time claiming that they are keeping their contract. For instance, if there is a good picture represented by a certain number, they may switch that number to a poor picture, and give him that. Does the Senator know whether or not that practice is rather general or otherwise?

Mr. NEELY. The chairman of the subcommittee has received at least a hundred complaints similar to the one to which the Senator from Idaho has just referred.

Mr. MINTON. Mr. President, I inquire if the bill is open to amendment?

The PRESIDING OFFICER. The bill is open to amendment.

Mr. MINTON. I send an amendment to the desk and ask that it may be stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 2, line 21, it is proposed to strike out the period, insert a comma and the following words, "or short subjects of 2,000 feet or less in length."

Mr. MINTON. The amendment is offered to meet the suggestion of the Senator from Michigan [Mr. VANDENBERG] that the bill as now drawn would make it difficult, if not impossible, to produce short subjects such as Mickey Mouse and the Silly Symphonies and other films of that kind. The amendment will simply broaden the exemption to exclude short subjects of 2,000 feet or less in length.

Mr. NEELY. I ask that the clerk report the amendment.

The PRESIDENT pro tempore. The clerk will read, as requested.

The LEGISLATIVE CLERK. On page 2, line 21, it is proposed to strike out the period, insert a comma and thereafter the following words: "or short subjects of 2,000 feet or less in length", so as to make the proviso read:

Provided, That the term shall not include films commonly known as "news reels" or other films containing picturizations of news events, or short subjects of 2,000 feet or less in length.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. BORAH. Mr. President, may I ask the able Senator from Indiana if he has given particular attention to the last clause of section 4, which is found on page 6, beginning in line 3, and which reads as follows:

If a motion-picture film which has been leased in commerce is substantially different from the synopsis hereinabove required, whether in respect of the outline or the manner of treatment, the exhibitor may cancel the lease as to such film without liability for breach of contract and may recover all damages suffered by him because of such difference, or he may retain the lease and recover damages as for a breach of warranty.

I do not know whether that language has been given particular attention, but I think it is very likely an unconstitutional provision. It provides that a moving-picture-theater operator may breach his contract without any liability for damages. I do not know that I shall move to strike it out, but if I were the author of the bill and wanted to be sure that it would remain on the statute books, I think I would move to strike it out.

Mr. MINTON. Mr. President, I should say that language of the bill is probably a little awkward, but it would certainly be statutory authority not for breaching a contract but for avoiding any liability under the contract for not performing it as it was written. In other words, it would be a defense for nonperformance. It merely provides that under the circumstances stated, the theater operator would not be liable for a breach of a contract.

Mr. BORAH. The picture which is obtained may be a perfectly satisfactory one; the theater operator may have used it and may have received the benefit from using it. The action of the exhibitor is based entirely upon the requirements or provisions previously set forth in section 4. He may enjoy the full benefit of a good picture, but if there should happen to be a breach in the express terms made by the seller the theater operator could recover damages or he could breach his contract and not be liable for damages.

Mr. MINTON. His position would be, as I understand, that he would have an excuse for not performing the contract as written, or, if he went ahead and performed it, he might sue for any damage that he might have suffered; but I cannot imagine what damage he would suffer.

Mr. NORRIS. Mr. President, will the Senator from Idaho yield?

Mr. BORAH. I yield.

Mr. NORRIS. I should like to propound a question. Does the language which has been quoted commencing in line 3 on page 6 and ending on line 10 on the same page, in legal effect, add anything to the bill? Could not the exhibitor do these very things if that language were all stricken out?

Mr. BORAH. I did not understand the Senator's statement.

Mr. NORRIS. The question I am propounding is: Does the language which has been quoted add anything to the legal effect of the bill? Would it not be just as effective if the language were all stricken out?

Mr. BORAH. I think the exhibitor would have a right to recover under the general law.

Mr. NORRIS. The provision refers to the action the exhibitor may take if the producer has done something that he is not allowed to do, as I understand, under the preceding language of the bill?

Mr. BORAH. Yes; but this provision reads that—

The exhibitor may cancel the lease as to such film without liability for breach of contract.

There must be some reason for putting in the words "without liability." I do not think we can take away in this way the liability for damages for breach of contract.

I have raised this question without any opportunity to study it carefully, but simply after reading the briefs on both sides this afternoon.

Mr. NORRIS. I have never had it called to my attention, but it seems to me that the language imposes a condition that, to start with, is illegal. And if this language were not in the bill the exhibitor would not be liable under the bill, because the act of the producer would be in violation of the language preceding the clause which has been referred to.

Mr. BORAH. I do not see that this provision helps the bill.

Mr. NORRIS. I do not think so, either.

Mr. NEELY. Mr. President, the clause was not inserted in the bill on my motion; it was added by very careful draftsmen who have been giving much of their lives to the preparation of such legislation. I have no desire to insist on the inclusion of anything which will endanger the passage of the bill.

Mr. BORAH. I do not think that the provision really strengthens the bill in what it is desired to accomplish.

Mr. NEELY. I am inclined to agree with the two able lawyers the Senator from Idaho [Mr. BORAH] and the Senator from Nebraska [Mr. NORRIS]. If it is the opinion of these distinguished Members that this provision of the bill is unnecessary and might endanger its constitutionality, I shall consent to its elimination.

Mr. NORRIS. Mr. President, may I interrupt the Senator there?

Mr. NEELY. I yield.

Mr. NORRIS. Is it the desire of the Senator to have the bill passed today?

Mr. NEELY. That is my hope.

Mr. NORRIS. I suggest if the bill is not to be passed today that before the Senate convenes tomorrow the Senator take this matter up with the draftsmen and see what the idea was in putting that language in the bill.

Mr. NEELY. With due respect to all concerned, I know too well the power of the opposition to be a party to any action which would delay unnecessarily the passage of the bill today.

Mr. NORRIS. I should not like to have the Senator rely on anything I have said relative to striking any provisions out of the bill, since I have not been able to give it consideration. It might do an injury to the bill.

Mr. NEELY. Am I correct in understanding that the suggestion of the Senator from Nebraska, if it be a suggestion, is to strike out, on page 6, the following?—

If a motion-picture film which has been leased in commerce is substantially different from the synopsis hereinabove required, whether in respect of the outline or the manner of treatment, the exhibitor may cancel the lease as to such film without liability for breach of contract and may recover all damages suffered by him because of such difference, or he may retain the lease and recover damages as for a breach of warranty.

Is that the language the Senator suggests be stricken out?

Mr. NORRIS. That is the language. Let me ask the Senator a question. Take the words:

If a motion-picture film which has been leased in commerce is substantially different from the synopsis hereinabove required.

Assuming that this language were not retained, the exhibitor would not be compelled to take the film because he would have been given a false idea of what it was by the failure on the part of the producer to give him a correct synopsis which the bill itself provides shall be given. If the producer has not done that, it seems to me, he would be liable under general law for any damages if damages were proven. The exhibitor could accept or reject the film as he saw fit.

Mr. NEELY. Mr. President, if I have correctly understood the arguments or suggestions of the Senators from Idaho and Nebraska, the language I have read from the bill is, in their opinion, simply a statement of general law, which is effective, of course, without this language being written into the bill. In other words, one has the right to an action for a breach of contract without any statement in the pending bill concerning that fact. One has a right, under general law, without regard to the language contained in the bill, to refuse to accept a product which has been bought according to certain specifications and which fails to meet those specifications. Is that the theory on which the suggestion is made?

Mr. BORAH. It is my contention that if there is a breach of contract, the party would have his remedy under general law; but under this provision of the bill the Senator is venturing beyond that, and I do not think it adds any strength whatever to his bill. The Senator takes a risk of having the question raised because of the fact that he undertakes to say here that the party may breach the contract without any liability for damages, which I should not undertake to do.

As one who is in sympathy with the bill, I think I shall move to strike out that language, beginning in line 3, and ending in line 10.

The PRESIDING OFFICER. The amendment offered by the Senator from Idaho will be stated.

The LEGISLATIVE CLERK. On page 6, it is proposed to strike out lines 3 to 10, inclusive, in the following words:

If a motion-picture film which has been leased in commerce is substantially different from the synopsis hereinabove required, whether in respect of the outline or the manner of treatment, the exhibitor may cancel the lease as to such film without liability for breach of contract and may recover all damages suffered by him because of such difference, or he may retain the lease and recover damages as for a breach of warranty.

Mr. NEELY. Mr. President, I am not inclined to oppose the motion of the Senator from Idaho. First, because of my great respect for his opinion, and, secondly, because my knowledge of the situation regarding this bill is such as to lead me to believe that any difficulties among the friends of the measure might result in its defeat. I believe, as the two able Senators have said, that under general law the exhibitor will have all the relief the Constitution would permit a court to grant in this particular matter and that the language in question is not necessary.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Idaho [Mr. BORAH].

The amendment was agreed to.

Mr. WHITE. Mr. President, I have received from Maine a great many letters urging me to support this bill. They have come from teachers, from ministers of the gospel, from strangers, and from many other persons for whom I have the highest respect. I should gladly accede to their wishes and vote for the measure if I could bring myself to believe that by so doing I should be accomplishing or furthering the accomplishment of the objectives the writers of the letters have in mind. I do not believe, however, that the enactment of the legislation will result in the benefits that these good people anticipate.

Mr. President, I am always reluctant to see the Senate consider a piece of legislation when there have been no hearings by any committee of the Senate during the session of Congress or even during the Congress to which the legislation is presented. Since there were hearings upon proposed legislation similar to this, there has come a marked change in the personnel of the committees having jurisdiction of the subject matter. There have come substantial changes in the personnel of this body; and I stand here and venture the assertion that there are not five persons now sitting in the Senate Chamber who have either heard or read a line of the testimony adduced before a committee of a previous Congress in regard to a measure of this kind.

If I am correct in that assertion, then I say the measure ought not now to be before the Senate, and ought not now to be receiving the consideration of this body.

There are other considerations which lead me to voice my opposition to the bill.

Mr. President, this is a bill which imposes penalties. For a violation of some of its provisions the bill provides a penalty in the nature of a fine up to $5,000 and also a penalty of 1 year's imprisonment in jail.

Section 3 of the bill undertakes to define the offenses for which the penalties to which I have alluded may be imposed. Now let me paraphrase the definition of the offense, so that we may clearly understand, if that is possible, just what the offense is supposed to be.

Paraphrased, the bill says that—

> It shall be unlawful for any distributor * * * to lease * * * films in a block * * * at a designated lump-sum price for the entire block or group * * * and at separate and several prices for separate and several films, or for a number or numbers thereof less than the total number, which total or lump-sum price and separate and several prices shall bear to each other such relation (a) as to operate as an unreasonable restraint upon the freedom of an exhibitor to select and lease for use and exhibition only such film or films of such block or group as he may desire and prefer to procure for exhibition.

Mr. President, I undertake to say that there is no such definiteness, there is no such certainty in that language as to apprise anyone of the offense with which he may be charged under this measure. If anyone can tell from that language when he is committing an offense prohibited by the bill he is, in my judgment, a man of extraordinary capacity.

Then the section enumerates, or attempts to enumerate, two or three other offenses; and it concludes with this language:

> Or to lease or offer to lease for public exhibition films in any other manner or by any other means—

I presume that refers to other means than the three previously specified in the section—

> the effect of which would be to defeat the purpose of this act.

And upon that definition, and for the commission of that offense, whatever it may be, a person is to be subjected to a fine of $5,000 or to a service of 1 year in jail.

Mr. President, it seems to me that this purported definition of offense lacks every proper element of a definition of a penal offense; and, so far as I am concerned, I am unwilling to cast my vote for a bill describing or defining offenses in any such loose manner. I venture the assertion that no indictment could be drawn which would definitely, accurately, and with certainty describe an offense against this section of the proposed law.

That is my second objection to the proposed legislation.

Now, Mr. President, I wish to discuss somewhat the problem with which the proposed legislation seeks to deal, and the language I shall now use is in large measure that of another. A short while ago I quoted very briefly from a letter written by Carl E. Milliken, a former Governor of my State, now associated with the Motion Picture Producers and Exhibitors of America, Inc. This letter was written by Mr. Milliken to a resident of Massachusetts and commented at some length on an article entitled "Who Selects America's Movies?" appearing in the January 1937 issue of the Journal of the American Association of University Women.

I pass over much of the letter and come to that part of it which deals specifically with block booking. Mr. Milliken says:

> Before proceeding to discuss in detail the trade practice known as block booking and to point out some of the obvious errors in the Journal article, let me remark that the mischief done by such misrepresentation is chiefly the discouragement of local community leaders who are led to believe that the improvement of motion pictures cannot be brought about except by legislation in Washington and, therefore, overlook the opportunities for genuine public service represented in effective community leadership toward the improvement of popular taste.
>
> * * * * * * *
>
> As you know, motion-picture prints which are projected in theaters are not sold to the theater manager but are leased for exhibition in each theater for a definite length of time. These prints are physically distributed from more than 500 branch exchanges in the 31 centers on this map.

He had made reference to a map which he sent with the letter:

> More than 27,000 miles of motion-picture film are circulated each 24 hours between these branch exchanges and the 16,000 theaters operating in the United States.
>
> * * * * * * *
>
> The theater manager who leases more than one film at a time does exactly what you do—

He was referring there to the lady to whom his letter was addressed—

> when you subscribe for a magazine, as for instance the Ladies' Home Journal, and pay for it by the year instead of by each issue as it comes from the press.
>
> The two reasons which prompt you to subscribe to the magazine obtain also in the case of the theater manager. Those reasons are price and convenience.
>
> Both of these reasons are much more urgent in the case of the theater manager because of the average distance of 100 miles or more between his theater and the center from which the films must be secured. This distance means that the closing of contracts must be accomplished at the cost of travel and time on the part of somebody—either the manager himself or the salesman of the distributor. There is obvious economy in negotiating the lease for a group of pictures on one trip as compared with requiring a separate trip for each separate contract.
>
> * * * * * * *
>
> There is an additional reason for advance closing of contracts by theater managers which does not obtain in the case of an individual subscriber to a periodical, that is, the matter of the particular market value of the company's product and the desire of the theater manager to retain that product for his customers if he has had it in the past or, if possible, to secure that popular brand of pictures away from his competitor. That was the consideration which induced the effort referred to above on the part of your local neighbor to get Paramount pictures ahead of the opening of the sales season.
>
> NO EFFECT ON QUALITY PICTURES
>
> After this preliminary explanation I come to the actual consideration of the main question presented by the article which appeared in the January issue of the A. A. U. W. Journal. That question is the supposed adverse influence of block booking upon the average quality of motion pictures, coupled with the suggestion that block booking deprives communities of the right to select those pictures they wish to see. It should be kept in mind in approaching this question that there are two distinct problems involved in this whole subject of block booking.
>
> The first is a business problem within the motion-picture industry where the buyer naturally wants to get as cheaply as possible that product which he believes will bring him the highest price.
>
> * * * * * * *
>
> THREE FALSE ASSUMPTIONS
>
> The other problem and the one which concerns your friends, the leaders of the American Association of University Women, is the question whether the trade practice called block booking affects adversely the average quality of motion pictures shown in the local theater. As I pointed out in the earlier part of this letter, the real reason for the prevailing opinion that block booking is the cause of poor pictures is the frequent alibi presented by the exhibitor when his picture is criticized.
>
> Those who assume that block booking lowers the average quality of motion pictures shown in the theater, and that the abolition of block booking will automatically assure the presentation of socially valuable pictures, rest that opinion upon three false assumptions of fact:
>
> PICTURES NOT FORCED ON EXHIBITORS
>
> 1. The assumption that theater managers now have no choice, but are required to take the complete product of each distributing company. To demonstrate how completely untrue this assumption is I offer the tabulation, marked "Exhibit B," composed of actual facts drawn from the records of distributing companies. It may safely be assumed that any distributing company which had the power to compel all its customers to take its entire product would invariably do so. The facts are:
>
> * * * * * * *
>
> A quotation from the records of the United States Circuit Court of Appeals in a case under review, the appeal from a decision of the Federal Trade Commission, shows that "out of a total of 47,288 contracts concluded with exhibitors in 9 exchange territories, covering about one-third of the country from the attendance standpoint, 34,773, or 73 percent, were for less than one-quarter of the pictures included in the blocks to which they related. Only 16 percent were for more than half the pictures in a block, and less than 4 percent were for entire blocks."
>
> b. The record of the number of contracts signed and the number of contracts played shows a wide variation between the number of contracts for the most popular pictures and the number secured for the least popular pictures on each company's schedule.
>
> * * * * * * *

2. The second false assumption of fact is the belief that if compelled to select pictures singly exhibitors would invariably choose those which would be commended by social welfare groups, P. T. A. groups, church leaders, etc. The fact is, of course, that the exhibitor would choose those which in his opinion would produce the most revenue in proportion to their cost.

Note in exhibit B that She Done Him Wrong (a Mae West picture) appeared at the top of the list of the Paramount schedule and played in 10,012 theaters. In other words, the exhibitor will select socially valuable pictures in proportion to the patronage for those pictures which he has secured from his community.

3. The third false assumption of fact is the supposition that attendance at motion-picture theaters is an automatic reflex action in each community regardless of the quality of the picture. The fact is, of course, that neither the theater manager nor the producer has any means of compelling the public to see any particular motion picture, or to attend motion pictures at all. People go to the theater seeking entertainment and select the pictures which they believe they will enjoy.

Mr. President, there has been experience with block booking, and efforts to abolish block booking have been made in other countries, and I read from this letter bearing on that subject the following:

It might be of interest to the writer of the Journal article to know that the experiment of abolishing block booking has already been tried in the foreign territory which most resembles our country in its background, standards, and motion-picture taste, namely, Great Britain. Prior to the passage of the Quota Act in 1927, many well-meaning people in Great Britain believed that block booking was preventing the exhibition of worth-while motion pictures in local theaters and, therefore, advocated the abolition of that trade practice. Block booking was made unlawful by the Quota Act of 1927, not primarily for any social welfare purpose, but in order to forbid British theaters from stocking up with American pictures to the disadvantage of British pictures locally produced.

Beginning several years after the passage of this act, a committee of experts, financed by the Carnegie Trust, made an intensive and thorough study of motion pictures in their relation to public interest and community life. This study was published under the title "The Film in National Life." Among other interesting facts they discovered that no improvement in the quality of motion pictures currently offered in the theaters could be traced to the abolition of block booking. The only appreciable effect had been an increase in the cost of distribution resulting in higher rentals paid by the theaters and reflected to some extent in increased box-office admission prices to the public. That increase was relatively slight in Great Britain because of the compact territory involved. Reference to the map (exhibit A) will show at a glance that the increase would be much greater in this country.

Mr. President, I believe I have read enough to present to the Senate the views of this citizen of my State with respect to the subject matter under discussion. I believe the figures he has presented constitute a demonstration that block-booking, as such, is not a reality. I believe a target has been erected at which the proposed legislation is aimed. It is my opinion that the enactment of the bill will not result in the advantages which its sponsors believe will flow from it. I think it will result in increased cost of distribution and increased cost to the American public which finds enjoyment in motion pictures. I think those responsible for the bill are guilty of loose draftsmanship, and that the question should have further consideration by the Senate at some other time. If the bill comes to a vote I shall feel constrained to vote against it.

The PRESIDING OFFICER (Mr. POPE in the chair). The question is on the engrossment and third reading of the bill.

Mr. JOHNSON of California. On that question I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. JOHNSON of California. 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:

Adams	Brown, Mich.	Donahey	Harrison
Andrews	Bulkley	Duffy	Hatch
Austin	Bulow	Ellender	Hayden
Bailey	Burke	Frazier	Herring
Bankhead	Byrd	George	Hill
Barkley	Byrnes	Gerry	Hitchcock
Berry	Capper	Gibson	Holt
Bilbo	Caraway	Gillette	Hughes
Bone	Chavez	Glass	Johnson, Calif.
Borah	Copeland	Green	Johnson, Colo.
Bridges	Dieterich	Hale	King
La Follette	Maloney	Radcliffe	Truman
Lewis	Miller	Russell	Tydings
Lodge	Minton	Schwartz	Vandenberg
Logan	Murray	Schwellenbach	Van Nuys
Lonergan	Neely	Sheppard	Wagner
Lundeen	Norris	Shipstead	Walsh
McAdoo	O'Mahoney	Smathers	Wheeler
McCarran	Overton	Smith	White
McGill	Pepper	Thomas, Okla.	
McKellar	Pittman	Thomas, Utah	
McNary	Pope	Townsend	

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

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

Mr. JOHNSON of California. On that question I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. KING. Mr. President, I ask permission to have inserted in the RECORD in connection with the consideration of this bill excerpts from the testimony of witnesses who appeared before a subcommittee of the Committee on Interstate and Foreign Commerce of the House of Representatives, Seventy-fourth Congress, second session, March 1936. One of the witnesses was Mr. C. C. Pettijohn. Also excerpts from the decision in the case of Federal Trade Commission against Paramount Famous-Lasky Corporation et al., appearing in Fifty-seventh Federal Reporter, second series, page 152, and quoted by Mr. Pettijohn in the hearing referred to; also the reply to the report submitted from the Senate Committee on Interstate Commerce upon the pending bill by various motion-picture producers.

I shall not take the time of the Senate to read the statements, record, and so forth, referred to; I content myself by asking permission to insert them in the RECORD.

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

The statements are as follows:

EXCERPTS FROM THE STATEMENT OF MR. C. C. PETTIJOHN, PAGES 417 TO 420, 426 AND 427 OF THE HEARINGS

When I appeared before the Interstate Commerce Committee of the Senate on February 27, 1928, in opposition to the first of these so-called block and blind booking bills, S. 1667, introduced by Senator Brookhart, I asserted this principle applied to the sales methods of the motion-picture industry the same as it did in other lines of business, and that we had the right to dispose of our film at wholesale for future delivery. On April 4, 1932, the United States Circuit Court of Appeals so held in the case of *Federal Trade Commission* v. *Paramount Famous-Lasky Corporation et al.* (57 Fed. (2d) 152), which for brevity has become known as the Paramount case. There has been so much distortion of the facts in regard to this case during the hearings that I believe it necessary to give a true statement of its history and background in order that the committee may fully comprehend the scope of this decision.

In 1919 the Federal Trade Commission commenced the most intensive and exhaustive investigation of the motion-picture industry ever undertaken by any branch of the Government. After a preliminary investigation, a formal complaint (docket 835) was filed on August 30, 1921, against the following respondents, to wit: Famous Players-Lasky Corporation, Realart Pictures Corporation, The Stanley Co. of America, Stanley Booking Corporation, Black New England Theaters, Inc., Southern Enterprises, Inc., Saenger Amusement Co., Adolph Zukor, Jesse L. Lasky, Jules Mastbaum, Alfred S. Black, Stephen A. Lynch, and Ernest V. Richards, Jr., charging them with conspiring to dominate, control, and monopolize the business through coercion of exhibitors by certain unfair methods. Block booking was not mentioned. On February 14, 1923, an amended complaint was filed, and it charged block booking as one of the monopolistic methods. Hundreds of witnesses were interviewed or testified at the hearings which covered all the key-city territories of the United States. The record consisted of over 17,000 pages of testimony and over 15,000 additional pages of exhibits and presented a most exhaustive picture of the film business in every section of the country. It has been said the evidence pertained only to block booking as practiced by the Paramount Co. This is not the fact. The best evidence is the record itself which, when examined, will disclose ample evidence as to how the competitors of Paramount were using the same sales method. This is also shown clearly and definitely in the opinion of the court.

After the completion of this record, the matter was twice briefed and argued before the full commission and its findings as to the facts and conclusions were entered on July 9, 1927. The Commission found that block booking and theater coercion lessened competition and constituted a dangerous tendency to monopoly and a cease-and-desist order against the Paramount Co., Zukor, and Lasky was duly entered. Mr. Myers was on that

date a member of the Commission and upon this record signed these findings of facts and the order. From this order the respondents did not appeal, and the Commission on August 1, 1928, filed a petition in the United States Circuit Court of Appeals for the Second Circuit (New York) asking for enforcement of this order. However, in making this appeal to the court, the Commission dropped the charge of coercion and asked only for enforcement of the block-booking order. There can be only one conclusion drawn from this omission, which is that the Commission, after 8 years of investigation was so thoroughly acquainted with this record as to know that it presented no evidence of coercion which would be sustained in a court of law. The case therefore was briefed and argued before the court on the sole and only question of the legality of the order against block booking, all other charges involved having failed for lack of evidence, notwithstanding a record of over 32,000 pages. Subdivision 1 of section 3 of the Pettengill bill is a practical copy of such order.

In a unanimous opinion the court says there is free and open competition in the industry and finds no coercion or restraints or monopoly or threat of monopoly, and that block booking is a proper lawful sales method of distributing pictures. Also, the doctrine of the right of a distributor to select his own customers was reaffirmed and the law stated to be that all distributors have the right to dispose of their pictures in any manner and for any prices they themselves may desire.

In order that there may be no attempt made to quibble, equivocate, or evade the clear and definite meaning of this decision, I desire to now present a few excerpts from the same. After reviewing the evidence the court (p. 156) says:

"There is no finding by the Commission that the method of negotiation in block booking, which it condemns, was generally successful in the distribution of their pictures to the detriment of respondent's competitors, nor is there a finding in respect to the existence or absence of free and active competition in the industry generally. The record discloses that the respondent's releases in 1923 were but 12 percent of the total releases, and this shows a decline in percentage since 1919. The small producer or distributor, as distinguished from the larger companies, has not been shown to have been affected by any combination between the large companies. The respondent's sales methods have not been shown to have any effect upon its competitors—the small producers—when the whole field is surveyed, and it is impossible to say on the evidence that the effect of block booking, as practiced by the respondent, or its accumulative effect, as practiced independently by the respondent and others, has unfairly affected competition. On the other hand, it may fairly be said that all persons engaged in the production of pictures have been able successfully to distribute their product. This has permitted fair competition in the industry."

And in discussing the rule of selection of customers, the principle is applied (p. 156) to the film business as follows:

"A distributor of films by lease or sale has the right to select his own customers and to sell such quantities at given prices or to refuse to sell at all to any particular person for reasons of his own (*Fed. Trade Comm.* v. *Raymond Co.*, 263 U. S. 565; *United States* v. *Colgate*, 250 U. S. 300; *Natl. Biscuit Co.* v. *Fed. Trade Comm.*, 299 Fed. 733 (C. C. A. 2); *Great A. & P. Tea Co.* v. *Cream of Wheat Co.*, 227 Fed. 46 (C. C. A. 2)). But in the sale or lease, it is unlawful if the sale is attempted to be brought about by an agreement, either actual or implied, as to the maintenance of resale prices (*United States* v. *A. Schrader's Sons, Inc.*, 252 U. S. 85; *Harriet Hubbard Ayer, Inc.* v. *Fed. Trade Comm.*, 15 Fed. (2d) (274 C. C. A. 2)). No such effort was made here."

And further on the court points out:

"The Commission may not interfere with the respondent's attempt to effectively dispose of their products as a whole before entering upon negotiations for the disposition of less than all. Nor is this method of negotiation and sales creative of a dangerous tendency to unduly hinder competition or to create a monopoly (*Beech-Nut Co.* v. *Fed. Trade Comm.*, 257 U. S. 441; *Fed. Trade Comm.* v. *Gratz*, 253 U. S. 421). We see nothing in the method of salesmanship involved in the respondent's business which has or can have any dangerous tendency unduly to hinder competition or to create a monopoly."

And later on (p. 158) the following:

"If real competition is to continue, the right of the individual to exercise reasonable discretion in respect of his own business methods must be preserved (*United States* v. *Colgate & Co.*, 250 U. S. 300; *United States* v. *A. Schrader's Sons, Inc.*, 252 U. S. 85)."

The copyright theory is quickly disposed of on page 158 of the opinion:

"It is true that respondent's pictures are copyrighted and that one cannot use them except under lease or license, but by reason thereof, no monopoly in the pictures has been created; and, moreover, the respondent's pictures are not indispensable to any exhibitor, as found by the Commission. Exhibitors need pictures, to be sure, but not necessarily respondent's. Its competitors have pictures which are also covered by copyrights and subject to lease; any person can make a picture and copyright it and any exhibitor is free to lease a copyrighted picture or refuse to do so."

In exploding their theory of compulsion or coercion on the exhibitor's freedom of selection, the opinion on page 158 says:

"The evidence in the record discloses that the effect of this method of negotiation has not been to unduly restrain the exhibitor's freedom of choice. It is only a small percentage of contracts made which are for blocks offered. The greater number are shown to be for a few pictures only. The record shows that the respondent succeeded in making a total of 9,128 contracts with exhibitors for pictures in groups, and of these 57¼ percent were for 10 pictures or less. This, it would seem, demonstrates that the method of negotiation prohibited by the cease-and-desist order has not had the effect of unduly restraining the exhibitor's freedom of selecting from among the pictures offered those which he desires. Nor is the alternative offer permitted to be made for the films, that is, to lease less than a block at higher prices, a coercive or intimidating method. The Commission found that the alternative prices are 'so high as to make it impossible for him (the exhibitor) successfully to compete with rival theaters.' The exhibitor can freely accept or refuse this offer. If the distributor has the right to sell or attempt to sell his films and the right to make terms which are reasonable, this offer of sale under such terms in no way restrains competition in trade; it constituted merely a part of the ordinary process of bargaining with the customer for the sale of one's product. Each sale, because of the difference in films, presents an individual problem which must be considered by the buyer and seller according to the circumstances and in conformity with their best judgments. At no time did the respondent refuse to sell if its terms were met. It engaged in a lawful effort to market its products at what it deemed to be desirable terms."

The record before the court in this case showed that out of a total of 47,288 contracts concluded with exhibitors in 9 exchange territories, covering about one-third of the country from the attendance standpoint, 34,773, or 73 percent, were for less one-quarter of the pictures included in the blocks to which they related. Only 16 percent were for more than half the pictures involved. Less than 4 percent were for entire blocks. Also, 37,179 contracts of the foregoing total represented original sales; that is, involved no repeat orders. Of this number, 25,442, or 68 percent, were for 1 to 10 pictures only; 11 percent were for 11 to 20 pictures; 9 percent for 21 to 30 pictures; 8 percent for 31 to 40 pictures; and less than 5 percent for more than 40 pictures.

From this decision the Commission did not file a petition for an appeal to the Supreme Court and the reason for this is to be found on page 108 of the Commission's Annual Report to the Congress for 1932, where, after reciting that the application for enforcement had been denied, it is stated: "The Commission, April 25, 1932, voted in favor of making an application for writ of certiorari. The Solicitor General decided that the application should not be made." It is thus evident that the Department of Justice at this time was in agreement with the circuit court of appeals.

It has been asserted that no constitutional question was decided in this case. I contend that the opinion, as shown by the foregoing quotations, after finding no agreement or concerted action between the distributors and producers and no monopolistic tendencies or unfair methods, then decides that the constitutional right to dispose of film at wholesale in advance of either production or delivery, and at such prices as they may desire, cannot be denied the producers and distributors.

Also, it is asserted that this decision was confined solely to the sales method of one company and not to the entire industry. This is denied by the record itself, as we have heretofore pointed out, and it is clear and definite from the quotation of page 156 of the opinion that the "whole field" was "surveyed" by the Court and the sales method considered "as practiced independently by the respondent and others."

It has been contended that inasmuch as the record in this case covered only the period from 1920 to 1925, that the decision has no bearing on present conditions. To this I say that all the evidence in these hearings shows that block booking is as old as the industry itself and this sales method of wholesaling in lots of two or more is the same method as was then practiced from 1920 to 1925. Furthermore, the alleged monopoly of which the proponents complain, was, according to their witnesses, fostered and promulgated during these years.

Furthermore, it should be noted that the witnesses for the proponents admit there is no agreement among the distributors as to prices, and that there is intensive competition among them for the patronage of the 16,000 theaters in the United States, of which some 12,000 are independents. This bears out the statement from the Department of Justice, as will be seen later, as to the difficulty in finding any evidence of an agreement among the producers and distributors in reference to blind and block booking. The essence of monopoly is an absence of competition and the record of these hearings shows the existence of active and intensive competition in all branches of the industry.

There is no monopoly or dangerous tendency to monopoly and I submit that under the guaranties of the Federal Constitution motion-picture producers and distributors cannot be denied the right to dispose of their film in wholesale lots in advance of either production or delivery at such prices as they think adequate.

C. C. Pettijohn, testified:

Throughout this whole hearing they have referred to the "Big Eight," and I have adopted their expression, although we do not admit there is the Big Eight, but I will go along and use the words "Big Eight." But there is no monopoly.

Last year 800 feature pictures of good, fair, or indifferent quality were offered for distribution in the United States. This, according to the same source of information. Of this number, about 340 were distributed under the trade names of one of the so-called Big Eight companies. Incidentally, I count nine, but they say

eight, and that will suffice for the argument. There is no monopoly there.

There are approximately 16,500 theaters in the United States. Approximately 12,500 of these theaters are so-called independent houses. It is quite evident that there is no theater monopoly. There is not one iota of testimony in these entire hearings to show that a single theater has been put out of business because of block booking or through any monopolistic practice. Until they can give authoritative facts and figures to show the existence of a monopoly, they are not justified in continuing to make such unwarranted assertions as they have been doing since the beginning of these hearings and in the hearings before the Senate committee. Producers and distributors are competitive among themselves. There is a constant bidding for the choicest brains and ability employed in making pictures. The companies sell to each other on the principle of the highest bidder. They compete in every city, town, and village for business. They spend large sums for individual national advertising of their product, and they are constantly engaged in trying to outstrip one another in successful production. Let me add as regards the charges of monopoly—and this is the only answer that I know of—that the Sherman law is in existence, the Clayton Act has not been repealed. The Federal Trade Commission is still functioning. The doors of the courts are still open. What necessity is there for this act?

Boiling every legal discussion on monopoly down to its final analysis in one paragraph, let me say just this:

You have unwarranted statements, not under oath, on their side that a monopoly exists, while on our side we have 35,000 pages of sworn testimony and exhibits taken in every key city in America upon which the United States Circuit Court of Appeals, Second Circuit, refused to enforce a cease-and-desist order and held that no monopoly existed. I do not see any necessity for additional law on the subject. In other words, on the question of monopoly we rest our case on decisions of the Federal courts.

When we consider, as one of the proponent's own witnesses said in his testimony, that there are approximately 4,000,000 separate distribution contracts each year—it is nearer 10,000,000, gentlemen, than 4,000,000, but his figures will suffice—we must take into consideration the number of potential lawsuits, the amount of work that will be laid at the doors of the various United States district attorneys, the number of people necessary to conduct these lawsuits, and the expense involved for all parties concerned, including the United States Government.

It is significant that exhibitors of motion pictures are opposed to this measure, and for reasons that seem clear upon a reading of the following quotations from the hearings.

E. L. Kuykendall, president, Motion Picture Theater Owners of America, Columbus, Miss., testified:

I am president of the Motion Picture Theater Owners of America and for many years have owned and operated motion-picture theaters in and around Columbus, Miss. At the present time I own and operate the Princess and the Dixie Theaters in Columbus, Miss. * * * This organization is the largest and oldest trade association of theater owners in the United States, and includes in its active membership over 4,500 of the leading theaters in the country, located in every State in the Union (pp. 342–343).

After long consideration and study of this bill, we are convinced that it is a deceptive and misleading piece of legislation, that it will not end block booking nor effectively curb compulsory block booking, that it will actually accomplish none of the purposes set forth by its advocates, no matter how sincere they may be in their contentions. As practical, experienced, and I hope, intelligent theater operators we know it is impossible to do these things by statute. * * * Instead, it is more than likely to increase film rentals for the smaller theaters and lessen the possibility of a continuous supply of pictures (p. 350).

The section of the bill requiring detailed specifications on each picture to be published in advance, and strictly adhered to by each producer, could only be proposed by those wholly ignorant of the intricate and difficult job of producing a good picture (p. 351).

E. D. Miller (Chicago, Ill.) testified:

I am president of the exhibitors' association, the largest stockholder in the theaters at Maywood, Ill., and Forest Park, Ill.

As I understand, this bill was proposed in order to clean up the morals of motion pictures. Of course, we have never seen a motion picture that we think makes this bill necessary. The fact of the matter is that certain groups complain about a motion picture on moral ground, when others who see the picture do not see that fault in it at all. I have shown pictures when a few people would complain about it and a hundred other people would say they did not see any objection to it at all.

Now, this bill will not stop any immorality in your motion pictures, if there is immorality there. It will not clean up the pictures. * * * I run the pictures because I think they will bring in money at the box office. We do not run bad pictures. We are not there to run bad pictures, immoral pictures, because they would not bring us any money, if there were such things. * * * I mean that I would not run a picture if I had something that the people did not want to see. * * *

Now, gentlemen, I want to bring out the fact that this bill, so far as the moral side of the picture is concerned, will not do what is claimed for it. It will not clean up the pictures, if you think they should be cleaned up. I cannot agree that they need policing any more than a lot of other organizations, and if they do, you are going at it the wrong way to clean them up. If the picture has not got enough to it to bring the people out to see it, there is no difficulty in canceling it.

Morton G. Thalhimer, President, Motion Picture Theater Owners of Virginia, Inc., Richmond, Va., testified:

I am president of the Independent Theater Owners of Virginia. It is my privilege to appear before you in opposition to this bill, and I wish to address you from two angles, first, as president of the Motion Picture Theater Owners of Virginia, and, second, as an independent exhibitor. I take it that those in favor of this bill feel that it is designed to accomplish some good to the public, the exhibitor, or the producer, or all of them.

I feel, after reading the bill, and studying it carefully, that the objective of the bill, as claimed, would not be accomplished, and that no good would come either to the public or to the exhibitors, and if anything did come out of the bill it would be a distinct harmful effect to the public and to the exhibitors, and I would like to present the following thoughts for your consideration:

Our organization represents over 90 percent of the 253 theaters in the State of Virginia. I believe I am conservative in telling you that 90 percent of the members of our association are in opposition to the bill (p. 398).

When an exhibitor signs up for an entire product, he knows that if he is to be successful he must have good pictures. He further knows that it is equally as important to the producer to make good pictures, because the only way the exhibitor has of paying the producer for his pictures is to take the money in at the box office. If the pictures are not what the public wants, then he doesn't take in the money, and regardless of what the contract may call for it is impossible for him to pay the producer for the film. In such cases, it is the custom in the trade that adjustments are given by the producer to the exhibitor. Sometimes these adjustments are given immediately after the playing of an unsuccessful picture, and sometimes the adjustments are given at the end of the playing of the entire season's product.

In short, the producer and exhibitor are really partners, and it is to their mutual benefit to produce and to exhibit the kind of pictures the public wants to see (p. 399).

REPLY

By the Motion Picture Producers & Distributors of America, Inc., on behalf of its producing and distributing members:

Bray Productions, Inc., 729 Seventh Avenue, New York City; Caddo Co., Inc., 7000 Romaine Street, Hollywood, Calif.; Columbia Pictures Corporation, 729 Seventh Avenue, New York City; Cosmopolitan Corporation, 1540 Broadway, New York City; Cecil B. de Mille Production, Inc., 2010 de Mille Drive, Hollywood, Calif.; Walt Disney Productions, Ltd., 2719 Hyperion Avenue, Los Angeles, Calif.; Educational Films Corporation of America, 1501 Broadway, New York City; First National Pictures, Inc., 321 West Forty-fourth Street, New York City; Samuel Goldwyn, Inc., 7210 Santa Monica Boulevard, Los Angeles, Calif.; D. W. Griffith, Inc., care of W. R. Oglesby, 300 Madison Avenue, New York City; Inspiration Pictures, Inc., 729 Seventh Avenue, New York City; Jesse L. Lasky Productions, Hollywood, Calif.; Loew's Inc., 1540 Broadway, New York City; Paramount Pictures, Inc., 1501 Broadway, New York City; Pioneer Pictures, Inc., 1041 North Formosa Avenue, Los Angeles, Calif.; Principal Pictures Corporation, 7000 Romaine Street, Hollywood, Calif.; Reliance Pictures, Inc., 1501 Broadway, New York City; RKO Radio Pictures, Inc., 1270 Sixth Avenue, New York City; Hal Roach Studios, Inc., Culver City, Calif.; Selznick International Pictures, Inc., 9336 Washington Boulevard, Culver City, Calif.; Twentieth Century-Fox Film Corporation, 444 West Fifty-sixth Street, New York City; United Artists Corporation, 729 Seventh Avenue, New York City, or 1041 North Formosa Avenue, Hollywood, Calif.; Universal Pictures Co., Inc., 1250 Sixth Avenue, New York City; Vitagraph, Inc., 321 West Forty-fourth Street, New York City; Walter Wanger Productions, Inc., 1045 North Formosa Avenue, Hollywood, Calif.; Warner Bros. Pictures, Inc., 321 West Forty-fourth Street, New York City.

On February 16, 1938, the Senate Committee on Interstate Commerce submitted its report favorably to S. 153.[1]

The report attributes to the bill two general purposes, one of which is said to be the primary purpose and the other the second-

[1] No hearings were held on S. 153, although a request therefor was made in behalf of the industry whose business conduct would be regulated by the bill if enacted.

In a footnote to its report it is pointed out that the bill is identical to a previous bill in the 74th Cong. (S. 3012), and that on such prior bill in a prior Congress, there were held full hearings before a subcommittee, at which appeared all interested representatives of the public and the several branches of the motion-picture industry. It is also pointed out that such hearings were not printed, the reason therefor being stated that in the same 74th Cong. there were even more exhaustive hearings before the House Committee on Interstate and Foreign Commerce which was then considering a similar bill, which hearings were printed.

The present report is, except for the addition of a word at one or two places and for the addition of a sentence, identical with the

ary purpose. The primary purposes, it is said, is "to establish community freedom in the selection of motion-picture films," and the secondary purpose being "to relieve exhibitors of a burdensome and monopolistic trade practice."

No quarrel with the mere statement of such purposes is possible. The discussion with regard to these purposes must therefore center about questions of what may be deemed fact; namely, is there an absence of "community freedom" in the selection of motion pictures today? Are exhibitors oppressed by a burdensome and monopolistic trade practice from which they should be relieved?

"COMMUNITY FREEDOM"

The phrase "community freedom" in relation to motion pictures shown throughout the land, and throughout the world, is a slogan; a catch word. The proponents of the bill in connection with such slogan have offered other appealing slogans and catch words. For instance, the statement that "the bill is founded on the American principle of home rule," and in the only additional sentence which is present in the report and was not present in the report of 1936 to the effect that centralized control of education is repugnant to the American public, that public schools are indigenous to the local communities which they serve; and that motion pictures are an important medium of education, from which the report concludes that the industry should come under the regulations of the bill. The fault is not in the concepts, but in the reasoning to support the conclusion asserted.

Slogans and phrases should, before being accepted as conclusive of an issue, be examined and analyzed to see what they have as their inarticulate premises. Nowhere in the report is it claimed that at present there is in fact no "community freedom" or no "home rule" in motion-picture entertainment, nor is there attempted an appraisal of how much there is of whatever is meant by these labels and how much there is not. This is of first importance in connection with the stated purpose of the bill. Only by inference does it appear that the report finds an absence of "community freedom" or of "home rule" in motion-picture entertainment.

The report does not assert that communities have been studied to learn how motion pictures exhibited to the people resident therein are selected or how the residents of the community select the motion pictures which they attend. Nor was there a disclosure of such fact at any hearing. The report does not claim that the people of the community are forced or compelled to attend motion-picture theaters to the exclusion of other forms of entertainment offered or that they are compelled to attend at any particular performance, or compelled to attend at any particular theater. It is usual in all communities, even in the very smallest of the United States, that there are several theaters. What then is meant by the phrase "community freedom"? The word "community" is not defined. One can suppose that motion pictures which are seen by about 40,000,000 people in the United States under no compulsion to see them and are then shown to people throughout the world, in the cities and villages of all the English-speaking countries, of the Spanish-speaking countries, and of the Orient have for their community all of the people who have seen fit to attend their showing. Certainly it would be wrong to say that such community has been brought about by any method designed by the distributor of the motion picture to negative "community freedom."

Motion pictures, of course, are not made for showing in any given small geographical area. They are made for showing in many areas throughout the world. The report cites Mr. Walter Lippmann, who thinks the universal and common appeal of motion pictures proceeds from the fact that the American producers seek the largest common denominator in the public taste. It is true that pictures are made with an appeal greater than that afforded by any single geographical community, but that in itself does not mean that any community is deprived from "community freedom" in its motion-picture entertainment. In fact, no one community has a very definitely ascertainable preference in motion pictures, or if one has, there would not be enough motion pictures to meet such particular preference. It may be, for example, that so-called action or western motion pictures are commercially profitable because they are more attended in one geographical area than they are in another, but nevertheless these and all other motion pictures must be made for larger patronage than is afforded by any single area. The truth of the whole matter is the fact that there is no single indicated community preference for motion pictures. Preferences seem to cut across geographical areas in the United States and across State and national boundaries and oceans. Even in the same family there are persons who have widely varied tastes in the motion pictures they prefer. Indeed, it is the experience of people in the business of motion pictures that in the same evening a family will split up, several going to one theater to view a picture showing there, the others going to another theater to view a different picture.

The argument in the report in respect of its stated primary purpose proceeds from the claim that the exhibitor is "the logical and only point of contact between the community and the motion-picture industry," and from a definition it makes of "compulsory block booking" and of "blind selling," two other slogans and catchwords rather than precise and fair descriptive terms of customary practices in the distribution of motion pictures.

It must be emphatically rejected that the exhibitors in any city, town, or village are the "only point of contact" between the people resident therein and the motion-picture industry. The motion-picture industry, particularly at its source—that is, in the production of motion pictures—has much contact with public and religious organizations truly representative of the people for whom motion pictures are made, which do more to influence the content of motion pictures than the individual statements some patrons may make to the proprietor or manager of a motion-picture theater. Other influential contacts are the newspaper editorial comment and press criticism and, of course, the inarticulate approval or disapproval that is evident from patronage or the lack of it.

Exhibitors as points of contact between motion pictures produced and motion pictures shown in theaters cannot make people go to see any particular motion picture. In all but the very smallest places in the United States all of the motion pictures produced are shown among the theaters which serve any given area. The problem of selectivity for different persons in any given community is met entirely by the achievement of an industry which makes available all over the United States expensively produced motion pictures at a low cost, which permits their display at all places and gives the public so many pictures to choose from.

It would indeed be a fault if in any community the practice was to force the showing of obscene or vicious pictures and to prevent the showing of many that are desirable. This is the indictment made in the report.

This is not synonymous with "community freedom" in any meaning of that term that is apparent. Even should a community, or sufficient members of a community to make it profitable, wish to see an obscene or vicious picture, the exhibitor should be restrained from showing it, even if he so desires; and no community, especially a free one, wishes to compel producers of desirable pictures to give them to the owners of the local facilities for their display at compensation not reasonable and mutually satisfactory.

Do the companies which distribute motion pictures force any theater owner to play an obscene or vicious picture? We should first ask, "Do they make obscene and vicious pictures?"

Those who have been attentive to the moral quality of motion pictures say, "No."

No company could force any exhibitor who had contracted to pay it for the exhibition rights to a motion picture, to pay for such picture if it were obscene or immoral or vicious. An exhibitor who honestly believed that a picture was obscene or immoral or vicious would not play it. He could rest secure that no judge or jury would direct him to pay for it. He often finds it a convenient excuse to any protesting person to say that having contracted to pay for a picture he could not afford not to play it; he does so with pictures he selects and wishes to play, and believes to be not subject to the protest made regarding it.

It has already been stated that in all communities or areas of the United States all motion pictures receive a showing. This is a short and complete answer to the charge that a desirable motion picture by current practice may be prevented from being shown in any community. If there is in rural areas a community or area so small that it is conveniently served by only one motion-picture

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report previously submitted on June 15, 1936 (S. Rept. 2378, 74th Cong., 2d sess.).

At the time the previous report was submitted the error of its conclusions seemed apparent to distributors of motion pictures, to exhibitors of motion pictures who opposed the bill, and to many interested persons and representatives of public groups that appeared before the Senate subcommittee in opposition to the bill at the hearings before the 74th Cong.

This group also felt that the hearings before the Senate subcommittee held in March 1934 had not afforded the fullest opportunity for presentation of the views of the opponents of the legislation, since when it came time for the presentation of such views the attendance of the members of the subcommittee had dwindled until it had reached almost the vanishing point. The proceedings before the Senate subcommittee not having been printed, they were not available to the entire committee of the 74th Cong. More importantly, they were not available to the members of the present Senate committee, which has, of course, changed in its composition from that of the committee of the 74th Cong.

The present report reproduces a list contained in the previous report of organizations which have announced their favorable support of the bill. Since the bill is identical with the previous bill, it is not improper that the report should do so, but 2 years have elapsed since the hearings before the former Senate committee on the bill, at which these organizations announced their support. During such time, as might be expected, there have been progressive changes in production of motion pictures, and for all that appears the business conduct of distributors of motion pictures may have been such as not to deserve the structures imposed. The industry hopes that the many groups and organizations who are attentive to the motion pictures which are annually produced and which have been offered for exhibition in the United States during this period have carefully observed continued progress and improvement in motion pictures, and perhaps even studied the mechanics of their distribution, a procedure somewhat more complicated than exists in the distribution of goods and commodities in the course of trade. If they have, their continued support to S. 153 under such circumstances should appear doubtful. The opportunity at least to again appear before the Senate committee as presently composed, to meet with the interested groups to review the motion pictures produced during the intervening period, and to examine the method of their distribution to motion-picture theaters, and to point out to the committee the erroneous conclusions contained in the prior report of 1936 not being afforded, it is sought to present the relevant facts in this memorandum.

theater, even in these days of automobiles and good roads, then such theater with no competition has the choice of the offerings of all distributors. For reasons of cost and expense, however, the theater can be operated profitably and can be served profitably only if it elects to make commitments for groups of the motion pictures from the distributing companies. The number in such groups is in the sole control of such theater.

How fallacious is the whole argument of community freedom appears from the admission in the report of the committee that under the operation of the bill it is contemplated that an exhibitor, instead of buying the pictures of Paramount, Metro, and Fox, would buy half of Paramount, half of Metro, and half of Fox, and half of RKO, Warner Bros., and Universal. The community loses no freedom of selection if as between two exhibitors one across the street from the other or two blocks from the other, or in rural communities one a few miles from the other, one is associated with the pictures produced for some of the distributing companies and the other theater with others, if all of the pictures are morally unobjectionable and available for selection by the theater-going public.

Nor, except for the mere charge, does the report show that vicious pictures are compelled to be exhibited or desirable pictures are prevented from being exhibited. The many pages of hearings failed to reveal any such instance in any community in the United States. If the 2 years since the hearings were painstakingly examined, community by community, theater by theater, no such instance would appear. This is the challenge of those who have been charged, but not proved to have offended.

PRACTICES NOT MONOPOLISTIC

Upon examination the high-sounding purpose of community freedom or home rule, advanced as the primary purpose, was seen to yield no justification for legislation. The label "monopolistic" advanced as a secondary reason, is even more delusive if not as engaging. Under its tyranny an American art industry which has outstripped the competing efforts of other countries, even where Government-fostered and nurtured, is exposed to the act of the guillotine which would decapitate all, the very smallest as well as the oldest and most important.

The report does not disclose any figures which would support the bare conclusion asserted that there is at present monopolistic control of motion pictures. The report says that witnesses representing independent exhibitors cited gradual shrinkage in the number of producing and distributing companies in the past 8 or 10 years and attributed this to the practice of compulsory block-booking and blind selling. It states that although there may be a dispute as to the cause, the result is admitted. This is an error. It is not admitted that in the past 8 or 10 years there has been a shrinkage, gradual or otherwise, of the number of producing and distributing companies. It is disputed. It is denied. It is asserted on belief that in the past 8 or 10 years there has been an increase in the number of producing and distributing companies. It is true that during the past 8 or 10 years, with the coming of sound motion pictures, the number of motion pictures produced is somewhat smaller than the number of motion pictures produced during the period when the production of a motion picture called for only a camera. Today, when sound motion pictures call for the costliest technical equipment and the outlay of great sums of money to produce even the cheapest possible motion picture, there are obviously not so many motion pictures produced; there are also not so many available outlets for motion pictures compared to the days when all that was necessary was a screen and a comparatively inexpensive silent projection machine.

So-called block booking and blind selling are claimed to be monopolistic because they are erroneously claimed to have brought about a shrinkage in the number of motion-picture producers and distributors in the past 10 years. If, then, there was no shrinkage, it ought to be readily admitted that the practices are not monopolistic.

Nothing in the report attempts to show why the practices are said to be "monopolistic" except possibly in the definition of block booking and blind selling. The definition of block booking in the report is said to be the practice whereby a distributor sells its entire output to an exhibitor for an ensuing season "affording the exhibitors no choice except to take all of the pictures so offered or none." It is said to be the practice of "the so-called Big Eight." But all distributors of motion pictures, everywhere distribute motion pictures in essentially the same manner, arising from the nature of the product, the necessities of the situation, and natural development.

A definition, of course, can be made to cover whatever the person making it wishes to cover. There would be no objection to this definition of block booking if the bill sought to prevent only that which is contained in the definition. With that definition may be contrasted the definition of students of the subject. See Harvard Business Reports, volume 8, where block booking is defined as follows:

"Block booking is the simultaneous sale to an exhibitor of a number of motion pictures for release and delivery to the exhibitor over a period of time, the pictures being offered as a group, and the aggregate price being in part dependent on the quantity taken. If an exhibitor accepted an entire block as offered, the price generally was lower per picture than if he selected a smaller number of pictures included in the block."

It is the practice as defined above which the bill makes criminal. There is nothing on the face of the definition as given by well-informed careful students of distribution practices of motion pictures which would appear to make such practice reprehensible. It seems evident that there is nothing "monopolistic" in such practice, and in fact a Federal circuit court of appeals (C. C. A. 2, 1932) which examined the practice on complaint of the Federal Trade Commission that it was an unfair method of competition, found it to be a legitimate and fair practice which could not be said to tend toward monopoly (*Federal Trade Commission* v. *Paramount Famous-Lasky Corporation* (57 Fed. (2d) 125)). One would suppose that forevermore the practice would never again be called "monopolistic" by one informed by such decision unless the court's conclusion was cited and the failure to accept its finding and conclusion of fact and law was pointed out and the reasons therefor made clear. This, of course, the report fails to do.

The practice is not "monopolistic," as the courts have found. No distributor has a monopoly of distribution. There are many in active competition, no one of whom dominates the industry. There are more than 10 large distributing organizations. In other countries there are never more than two or three. More pictures are produced in 1 year than the combined output of all other countries.

Nor are the present practices oppressive or burdensome. No exhibitor appeared who stated that he was put out of business because he bought in groups or in advance of production. No producer appeared who said he could not produce or distribute because the others contracted for groups of pictures.

In the past, some years ago, some distributor may have told an exhibitor that the exhibitor would have to take all or none of the motion pictures. It is believed that no distributor has done so for many, many years. To make it criminal for a distributor to do so now is altogether unnecessary. At the hearings before the committee no exhibitor appeared to say that any distributor has done so for many years past.

All or nearly all of the distributors permit a cancelation privilege of 10 percent if the motion pictures are taken in the groups offered. As to prices for groups, one need only look into one's own experience to realize why distributors offer a more attractive financial proposition if the exhibitor takes the block offered by the distributor and not just a few selected pictures here and there. One's experience with lecture group subscription tickets or symphony concert subscription tickets should immediately serve to impress the very substantial price differences that can be afforded in such recreational or entertainment programs when a commitment is made for subscriptions for series.

The difference in cost to an organization which arranges through a booking office for lecturers offered on a season's program by such booking office and in arranging for individual lecturers is within the experience of all, and yet this bill makes criminal just such cost differences. It makes it a criminal offense punishable by a year in prison if the distributor makes the group price in relation to the price for pictures of the group so attractive that the exhibitor, in order to get the motion pictures he "prefers" and "desires," contracts for the group. No distributor will ever know in making his contract whether he has violated this provision of the bill. Why a distributor can offer a very attractive price for a group in comparison to prices for individual pictures is apparent. It is not believed that any exhibitor has suffered thereby. It is not burdensome or oppressive upon any exhibitor any more than it is burdensome and oppressive upon organizations to do their booking of lecturers or to provide educational courses through a combined program at prices much lower than could be afforded for individual lectures or courses, and distributors are no more unfair or oppressive or "monopolistic" to exhibitors than are organizations which offer to persons subscription series to concerts or the opera or groups of lectures at universities or extension schools, or books from a book club or magazine subscriptions, at substantial price concessions.

It is necessary for the exhibitors to know in advance the commitments they will have to make for motion pictures to keep their theaters open and it has been of distinct advantage to exhibitors to know for example that they can contract to be supplied with the motion pictures of companies of long experience and reliability.

It is true that exhibitors contract in advance for motion pictures before they are made. There is no compulsion on an exhibitor to do so and an exhibitor can at any time change his policy so as to contract for motion pictures only after they are made. In fact a great many exhibitors, particularly in the rural centers where they are not pressed by competition to show motion pictures when very fresh, do so. That is, they wait until the season is well under way before they commit themselves for the motion pictures of at least a few distributors. They have accumulated motion pictures which should be furnished to them on previous seasons' contracts and perhaps they have made a contract with the best of the motion-picture distributors whose good product is assured by past experience and to which exhibitors sometimes refer as the "backbone" of their programs. Then, waiting as they do for several months, they determine the comparative excellence of the motion pictures produced by other producers' organizations and make contracts after a considerable number of such motion pictures have been produced to indicate their quality and entertainment value. Thus they are fully aware in advance of the content of each picture they exhibit.

In some cities there are theaters which show very little else but what are termed "revivals"—that is, these theaters bring back for exhibition in the area motion pictures which had been produced sometime before, but which are believed to have entertainment

value. Of course, such motion pictures have already been produced and reviewed.

There is no compulsion on exhibitors to make contracts in advance. The distributors, of course, in competition with each other, each would like to know that they have contracts for the exhibition of their motion pictures. By the same token, exhibitors who have substantial investments in houses wish to encourage distributors to arrange for the making of motion pictures at the studios, and wish to assure themselves of such motion pictures when produced at predictable cost. They therefore make contracts in advance of production.

When exhibitors at one time were afraid they would not have sufficient motion pictures at reasonable prices for the operation of their theaters, they formed a cooperative association in which each contributed money and bound themselves to take and pay for motion pictures produced by their cooperative organization. It is a matter of record that this cooperative organization first started paying remunerations to actors and directing talent much larger than up to that time had been paid.

More recently the theater owners in an organization of exhibitors who appeared at the hearings in support of the bill had called to their attention their efforts to make the members of their association enter into 5-year contracts with a distributing company they sponsored, under plans whereby the distributing corporation arranged for the distribution of motion pictures to these exhibitors of all the motion pictures to be produced for a period of 5 years under a franchise contract which obligated the exhibitors to take them.

What makes exhibitors and distributors alike wish to contract for the showing of motion pictures in advance of their production is not any monopolistic design but the legitimate desires of each to effect some safeguards in an enterprise of extreme commercial hazards. For years they have done so to their mutual benefit, to the benefit of the American industry, and to the benefit of the public.

The report claims that the bill defines its prohibitions in proper technical language. To the members of the industry the language of the bill seems curiously inept. The report says that there is no sound reason for apprehending that the enactment of the bill will inflict monetary loss on the industry; but it is hard to understand how they can disregard the testimony of those leaders and spokesmen of the foremost companies of the industry who gave it as their opinion that it would inflict severe hardship and monetary losses on the industry. Are the views in such regard, the views of the experienced and trained leaders of the foremost companies in the industry to be rejected? If so, how can the companies and their stockholders, and even the American public interested in the welfare of its industry, be assured otherwise?

The report repeats the paragraph contained in the prior report that the contention that the movies have improved in quality during the past 2 years is irrelevant, and that the recent reformation is purely voluntary and may be believed to be of short duration. But certainly it has overlooked 2 more years of steady advancement. In reissuing the prior report it should have said that 4 years of improvement is pointed to by the industry, and then state, if it can, that 4 years of responsibility discharged is of short duration.

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

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Calloway, one of its reading 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 amendment of the Senate to the bill (S. 3691) to provide for the appointment of additional judges for certain United States district courts, circuit courts of appeals, and certain courts of the United States for the District of Columbia.

AMENDMENT OF FEDERAL-AID ROAD ACT—CONFERENCE

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 10140) to amend the Federal Aid Road Act, approved July 11, 1916, as amended and supplemented, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. McKELLAR. I move that the Senate insist upon its amendments, agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. McKELLAR, Mr. HAYDEN, Mr. BAILEY, Mr. BULOW, and Mr. FRAZIER conferees on the part of the Senate.

ADDITIONAL JUDGES FOR CERTAIN UNITED STATES COURTS

Mr. HATCH. Mr. President, I submit the conference report on Senate bill 3691, providing for additional judges for certain United States courts, and ask that it be read.

The VICE PRESIDENT. The report will be read.

The legislative clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3691) to provide for the appointment of additional judges for certain United States district courts, circuit courts of appeals, and certain courts of the United States for the District of Columbia, 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 disagreement to the amendment of the House, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

"That the President is authorized to appoint, by and with the advice and consent of the Senate, four additional circuit judges, one for each of the following judicial circuits: Second, fifth, sixth, and seventh.

"SEC. 2. The President is authorized to appoint, by and with the advice and consent of the Senate, one additional associate justice of the United States Court of Appeals for the District of Columbia.

"SEC. 3. Section 2 of the Act entitled 'An Act authorizing the appointment of an additional circuit judge for the third circuit', approved June 24, 1936 (49 Stat. 1903), is hereby repealed.

"SEC. 4. The President is authorized to appoint, by and with the advice and consent of the Senate, twelve additional district judges, as follows:

"(a) One district judge for each of the following districts: Western district of Louisiana, southern district of Texas, eastern district of Michigan, western district of Washington, northern district of Illinois, western district of Virginia;

"(b) One district judge for the southern district of California, whose official residence shall be Fresno;

"(c) One district judge for the northern district of California, whose official residence shall be Sacramento;

"(d) One district judge for the southern district of New York: *Provided*, That the first vacancy occurring in the office of district judge for the southern district of New York by the retirement, disqualification, resignation, or death of judges in office on the date of enactment of this Act shall not be filled;

"(e) One district judge for the district of Massachusetts: *Provided*, That the first vacancy occurring in the office of district judge for the district of Massachusetts by the retirement, disqualification, resignation, or death of judges in office on the date of enactment of this Act shall not be filled;

"(f) One district judge for each of the following combinations of districts: Eastern and western districts of Arkansas, eastern and middle districts of Tennessee: *Provided*, That no successor shall be appointed to be judge for the eastern and middle districts of Tennessee.

"SEC. 5. The President is authorized to appoint, by and with the advice and consent of the Senate, three additional associate justices of the District Court of the United States for the District of Columbia.

"SEC. 6. That any vacancy which may occur at any time in the office of United States district judge for the district of Montana created by the Act of September 14, 1922 (42 Stat. 837), is hereby authorized to be filled."

And the House agree to the same.

CARL A. HATCH,
M. M. LOGAN,
WARREN R. AUSTIN,
Managers on the part of the Senate.

HATTON W. SUMNERS,
EMANUEL CELLER,
U. S. GUYER,
Managers on the part of the House.

The VICE PRESIDENT. Without objection, the conference report is agreed to.

Mr. HATCH. Mr. President, in connection with the report, I should like to have printed in the RECORD at this point a statement concerning the residence requirements of judges in the State of California.

The VICE PRESIDENT. Without objection, the statement may be printed in the RECORD.

The statement is as follows:

NEW DISTRICT JUDGES FOR NORTHERN AND SOUTHERN DISTRICTS OF CALIFORNIA

The official residential requirement for each of these judges is not intended to restrict the full participancy of each in the judicial work of his district wherever he may be required to sit to perform his share. Like every other judge in the district, each is

controlled by the provisions of title 28, section 27, of the Judicial Code, providing that:

"In districts having more than one district judge, the judges may agree upon the division of business and assignment of cases for trial in said district; but in case they do not so agree, the senior circuit judge of the circuit in which the district lies shall make all necessary orders for the division of business and the assignment of cases for trial in said district."

RELIEF OF WILLIAM A. PATTERSON AND OTHERS

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 1700) for the relief of William A. Patterson, Albert E. Rust, Louis Pfeiffer; and John L. Nesbitt and Cora B. Geller, as executors under the will of James T. Bentley, which were, on page 1, to strike out all after line 2 down to and including "$46,670.34" in line 8 and insert "That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated", and on page 2, line 3, to strike out all after "said" down to and including "represents", in line 4, and insert "firm, the sum of $46,670.34, in full settlement of all their claims against the United States for refund of."

Mr. LODGE. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

PENSIONS FOR SPANISH-AMERICAN WAR AND OTHER VETERANS

Mr. McGILL. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1633, being House bill 5030, granting pensions and increases of pensions to certain soldiers, sailors, and nurses of the War with Spain, the Philippine Insurrection, or the China Relief Expedition, and for other purposes.

The VICE PRESIDENT. The question is on the motion of the Senator from Kansas.

The motion was agreed to; and the Senate proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That all persons who served 90 days or more in the military or naval service of the United States during the War with Spain, the Philippine Insurrection, or the China Relief Expedition between the dates of April 21, 1898, and July 4, 1902, both dates inclusive, and who have been honorably discharged therefrom, or who, having served less than 90 days, were discharged for disability incurred in the service in line of duty, upon reaching the age of 65 years shall, upon making proof of such fact, be placed upon the pension roll and entitled to receive a pension of $60 a month: *Provided*, That all leaves of absence and furloughs under General Orders, No. 130, August 29, 1898, War Department, shall be included in determining the period of pensionable service: *Provided further*, That the provisions, limitations, and benefits of this section be, and hereby are, extended to and shall include any woman who served honorably as a nurse, chief nurse, or superintendent of the Nurse Corps under contract for 90 days or more between April 21, 1898, and February 2, 1901, inclusive, and to any such nurse, regardless of length of service, who was released from service before the expiration of the 90 days because of disability contracted by her while in the service in line of duty.

SEC. 2. Any soldier, sailor, or marine, or nurse with service as defined in section 1 of this act now on the pension roll or who may be hereafter entitled to a pension under existing laws, or under this act on account of his service during the War with Spain, the Philippine Insurrection, or China Relief Expedition, who is now or hereafter may become, on account of age or physical or mental disabilities, helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be given a rate of $100 a month.

SEC. 3. That the pension or increased rate of pension herein provided for shall commence from the date of filing application therefor after the approval of this act in such form as may be prescribed by the Administrator of Veterans' Affairs, provided they are entitled to a pension under the provisions of this act, and the issue of a check in payment of a pension for which the execution and submission of a voucher was not required shall constitute payment in the event of the death of the pensioner on or after the last day of the period covered by such check, and it shall not be canceled, but shall become an asset of the estate of the deceased pensioner.

SEC. 4. Nothing contained in this act shall be held to affect or diminish the additional pension to those on the roll designated as the Army and Navy Medal of Honor Roll, as provided by the act of April 27, 1916, but any pension or increase of pension herein provided for shall be in addition thereto: *Provided*, That no one while an inmate of the United States Soldiers' Home or of any National or State Soldiers' Home, and while the Government of the United States contributes toward defraying the expense incurred in providing such inmate with domiciliary care, shall be paid more than $50 per month under this act: *Provided further*, That any pension paid to any person under the provisions of this act shall be in lieu of any other pension to which he might be entitled to under any other war service pension act.

SEC. 5. That nothing contained in the provisions of this act shall be construed to diminish or reduce any pension heretofore granted.

The VICE PRESIDENT. The question is on the third reading of the bill.

Mr. KING. Mr. President, I ask for an explanation of the bill.

Mr. McGILL. Mr. President, the bill grants certain pensions to veterans of the Spanish-American War, the Philippine Insurrection, and the China Relief Expedition.

At the present time, under existing law those who have suffered disabilities in line of duty receive the following pensions:

For a one-tenth disability, $20 per month; for a one-fourth disability, $25 per month; for a one-half disability, or 50 percent disability, $35 per month; for a three-quarters disability, $50 per month; for total disability $60 per month; for one requiring the aid and attendance constantly of another person, $72 per month.

Those who have reached the age of 62, regardless of disability, receive $30 per month; those who are 68 years of age receive $40 per month; those who are 72 years of age receive $50 per month; and those who are 75 years of age receive $60 per month.

Under the provisions of section 1 of the bill, Spanish-American War veterans who have reached the age of 65 years would be entitled to a pension of $60 per month. Those who have suffered disability to the extent that they require the aid and attendance of another person at all times would be entitled to a pension of $100 per month. At the present time those who require the aid and attendance of another person receive a pension of $72 per month.

Briefly to state the matter, the bill will affect approximately 23,000 veterans. It is estimated that section 1 of the bill, granting a pension of $60 per month to those who have reached the age of 65 years, would cost the Government $4,876,000 per year, over and above the present cost.

Section 2 of the bill, which would increase the pensions of those who require the aid and attendance of another person at all times, would cost the Government approximately $862,200 per year over and above the present cost. The total increase over existing law would amount to $5,738,200. The estimates have been furnished to the Committees on Pensions of the two Houses by the Veterans' Administration.

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

Mr. McGILL. I yield.

Mr. LUNDEEN. The average age of Spanish-American War veterans now exceeds 65 years; does it not?

Mr. McGILL. The average age of Spanish-American War veterans at the present time is about 65.

Mr. LUNDEEN. And if we are to do anything for them, we had better do it now.

Mr. McGILL. That is my view. Approximately 23,000 veterans are affected by the bill. A large number of Spanish-American War veterans who sustained disabilities, or who have passed the age of 65, are receiving at the present time as much as $60 per month; and some, under existing law, in excess of $60 per month. The number of veterans who are 65 years of age or more at the present time, and who are not drawing in excess of $50 per month, is about 23,000.

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

Mr. McGILL. I yield.

Mr. LEWIS. I ask the able Senator, the chairman of the Pensions Committee, if it is not true that the bill provides for many who were not provided for at all in previous measures?

Mr. McGILL. Those who are under 62 years of age and who have no disabilities are not now receiving any pensions at all.

Mr. KING. Mr. President, will the Senator permit an interruption?

Mr. McGILL. Certainly.

Mr. KING. Is any distinction made between those who may have sustained disabilities and those who sustained no disabilities and who are now in good health and have ample means, as some may have?

Mr. McGILL. Am I to understand the Senator to refer to those who have passed the age of 65?

Mr. KING. Yes.

Mr. McGILL. No; those who have passed the age of 65 would be regarded as disabled. Those who are totally disabled at the present time, whether they be 65 years of age, or more, or less, are receiving $60 per month.

The difficulty is for veterans who have been adjudged three-fourths or 75 percent disabled to establish beyond the 75-percent disability, total disability in order to receive $60 per month.

Mr. KING. Mr. President, if the Senator will pardon me, I should like to interrupt him again, as I want to have a clear idea of the bill. As I understand the bill, veterans, after they have reached the age of 65 years, who may have been in the Army for only a few days, who suffered no disabilities, who perhaps, were never away from continental United States, and are now in good health, and, perhaps, have property, would receive the same compensation as those who sustained disabilities?

Mr. McGILL. No; this bill provides that, in order that a veteran after arriving at the age of 65 years may be entitled to a pension of $60 per month, he must have served at least 90 days between the dates set forth in the bill.

Mr. KING. That would be from the outbreak of the war, I presume?

Mr. McGILL. It would be between April 21, 1898, and July 4, 1902. So the serving of a few days is not involved. The veteran must have served at least 90 days. There is, however, a pensionable status for those who served less than 90 days and who incurred disabilities in their service.

Mr. KING. The wealth or poverty of the recipient of the pension proposed is immaterial; that is to say, the rich man would get the same pension as the poor man?

Mr. McGILL. There are very few Spanish-American War veterans, if any, who are numbered among the well to do and the rich of this country. There are very few among them who are physically able and who have suffered no disability. Practically all of them are men who are now beyond 65 years of age. That is the average age. Some are above that age and some are under it.

In 1937 the death rate among Spanish-American War veterans was 32.41 to every 1,000, or more than 4,000 deaths, among them during the year 1937. The death rate is increasing so that it is estimated that in 1938 the death rate per thousand will be 35.93, or in excess of 5,000 deaths of Spanish-American War veterans during the calendar year 1938.

It is further estimated that while this measure will increase the cost to the Government the first year approximately a little in excess of $5,000,000, and will increase the cost to the Government during the first 2 years after its enactment, but at the expiration of 2 years, by virtue of the death rate among Spanish-American War veterans, the cost to the Government will not be any greater than it is under existing law.

I do not desire, Mr. President, to take up a great deal of the time of the Senate. I should like to emphasize for the RECORD, however, the fact that there are 175,361 Spanish-American War veterans who are now on the pension roll, and the death rate applicable to them is what I have stated to the Senate. I will be glad to answer any questions which may be asked.

The VICE PRESIDENT. The question is on the third reading of the bill.

The bill (H. R. 5030) was ordered to a third reading, read the third time, and passed.

ISSUANCE OF TREASURY BONDS AND NOTES

The VICE PRESIDENT. The Chair lays before the Senate a bill coming from the House of Representatives.

The bill (H. R. 10535) to amend the Second Liberty Bond Act, as amended, was read the first time by its title and the second time at length, as follows:

Be it enacted, etc., That the first paragraph of section 1 of the Second Liberty Bond Act, as amended (U. S. C., title 31, sec. 752), is amended by striking out the following: ": *Provided*, That the face amount of bonds issued under this section and section 22 of this act shall not exceed in the aggregate $25,000,000,000 outstanding at any one time."

SEC. 2. Section 21 of the Second Liberty Bond Act, as amended (U. S. C., title 31, sec. 757b), is amended to read as follows:

"SEC. 21. The face amount of bonds, certificates of indebtedness, Treasury bills, and notes issued under the authority of this act, and certificates of indebtedness issued under the authority of section 6 of the First Liberty Bond Act, shall not exceed in the aggregate $45,000,000,000 outstanding at any one time."

Mr. HARRISON. Mr. President, I ask that the bill be considered at this time. I will say that the bill is similar to a Senate bill reported from the Finance Committee. If the House bill may be considered and passed, as I hope it may be, then I shall ask that the Senate bill reported by the Committee on Finance which is now on the calendar be indefinitely postponed.

Mr. McNARY. Mr. President, I think the Senator from Mississippi should make a brief statement concerning the bill.

Mr. HARRISON. Mr. President, I may say that under the existing law the Treasury Department has authority to issue $45,000,000,000 worth of bonds, Treasury notes, and short-term notes. The limit on long-term paper is $25,000,000,000, and the limit on short-term paper is $20,000,000,000. Of the long-term paper, on the issuance of which the limit is $25,000,000,000, there is outstanding $23,301,000,000. So, in reference to such paper, the Treasury has a leeway of only $1,698,000,000 plus. Of short-term paper the Treasury has authority to issue $20,000,000,000 worth, but they have only issued approximately $14,000,000,000 worth. What this bill does is to remove the partition in the allocation of the $20,000,000,000 for short-term notes and $25,000,000,000 for long-term notes, leaving to the Treasury the authority to sell long-term instead of short-term paper or vice versa. It is in the interest, I may say, of saving some money for the Government and financing some of the Government's expenditures.

Mr. BROWN of Michigan. Mr. President——

The VICE PRESIDENT. Does the Senator from Mississippi yield to the Senator from Michigan?

Mr. HARRISON. I yield.

Mr. BROWN of Michigan. As the Senator knows, I have been interested in obtaining the views of the Treasury Department in regard to an amendment which the Senator from North Carolina and I have discussed to some extent. I did not know the Senator was going to ask that this bill be considered today. I have just telephoned to the Treasury this afternoon the substance of the amendment concerning which I desired to obtain their views. I am wondering if the Senator would not be willing to allow the bill to go over until tomorrow?

Mr. HARRISON. I will gladly accommodate the Senator. I may say that I did not know there would be any amendment, although I knew that in the committee the Senator had a certain viewpoint with reference to the measure.

Mr. BROWN of Michigan. I was a little disturbed over the question of whether or not the passage of the bill might open the way to the issuance of a large number of bonds. I think there could be approximately $8,000,000,000 of bonds issued before January 1 when the Senate will meet again. It seemed to me that we ought to do something to save the status quo in that respect.

Mr. HARRISON. If the Senator desires that the bill be not considered at this time, I shall not insist on it. I sought to have it considered because the House had passed the bill, a similar bill has just been reported to the Senate by the Finance Committee, and I wanted to get through with it as soon as possible.

Mr. BROWN of Michigan. I am anxious to have the Senator himself look over the amendment I should like to offer.

Mr. HARRISON. Mr. President, I withdraw the request for the consideration of the bill for the time being.

The VICE PRESIDENT. The request is withdrawn.

Mr. BARKLEY. Mr. President, I inquire if the bill goes over until tomorrow as the unfinished business?

Mr. HARRISON. I did not ask that it be made the unfinished business, but I will endeavor to bring it up sometime tomorrow.

Mr. BARKLEY. I wish to say to the Senate that it is contemplated that the calendar will be called tomorrow as soon after the Senate convenes as possible and such other odds and ends as we may have left over, which will be the object of the meeting tomorrow.

REGULATION OF TRANSPORTATION AND SALE OF NATURAL GAS

Mr. BULKLEY. Mr. President, will the Senator yield to me?

Mr. BARKLEY. I yield to the Senator from Ohio.

Mr. BULKLEY. I move that the Senate proceed to the consideration of the bill (H. R. 6586) to regulate the transportation and sale of natural gas in interstate commerce, and for other purposes. I should like to have the bill made the unfinished business.

Mr. BARKLEY. Mr. President, I did not yield to the Senator to make any bill the unfinished business. I think it will be easy to have that bill taken up after the calendar is called, but in view of the fact that the Senator from Mississippi wanted to take up the bill to which he referred a few moments ago, although technically it is not the unfinished business, I would rather the Senator from Ohio would not move to make the gas bill the unfinished business tonight.

Mr. BULKLEY. In that event, I will not make the motion.

Mr. BARKLEY. I do not think the Senator will have any trouble in getting the bill before the Senate.

Mr. HARRISON. Mr. President, if the Senator will permit me, I will say that some of us are very much opposed to the bill the Senator from Ohio is seeking to have made the unfinished business. Personally, I shall never vote for a bill that will permit any agency of the Government to increase the price of natural gas as a competitive commodity with other commodities produced in this country. I think if natural gas is going to be regulated there ought to be a minimum and not a maximum provided.

Mr. BARKLEY. Mr. President, I hope the Senator from Ohio will not urge the matter tonight.

Mr. BULKLEY. I will not press the motion tonight, but I am anxious to have the Senate proceed to the consideration of the bill.

EXECUTIVE SESSION

Mr. BARKLEY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The VICE PRESIDENT laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORT OF A COMMITTEE

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nomination of Lindsey L. Burke to be postmaster at Norwalk, Calif., in place of L. L. Burke, which was ordered to be placed on the Executive Calendar.

The VICE PRESIDENT. If there be no further reports of committees, the clerk will state the nominations on the calendar.

THE JUDICIARY

The legislative clerk read the nomination of Thomas A. Murphree to be judge of the northern district of Alabama.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Summerfield S. Alexander to be United States attorney, district of Kansas.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Lon Warner to be United States marshal, district of Kansas.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

WORKS PROGRESS ADMINISTRATION

The legislative clerk read the nomination of W. G. Henderson to be State administrator for Alabama.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

The VICE PRESIDENT. Without objection, the nominations of postmasters will be confirmed en bloc. The Chair hears no objection, and the nominations are so confirmed.

IN THE NAVY

The legislative clerk proceeded to read sundry nominations for promotion in the Navy.

The VICE PRESIDENT. Without objection, the nominations in the Navy will be confirmed en bloc. The Chair hears no objection, and the nominations are so confirmed.

That completes the calendar.

ORDER FOR CONSIDERATION OF UNOBJECTED BILLS TOMORROW

The Senate resumed legislative session.

The VICE PRESIDENT. Does the Senator from Kentucky desire to make a request for unanimous consent that unobjected bills on the calendar be considered tomorrow?

Mr. BARKLEY. I ask unanimous consent that immediately upon the convening of the Senate tomorrow the calendar be called for the consideration of unobjected bills.

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

RECESS

Mr. BARKLEY. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 4 o'clock and 10 minutes p. m.) the Senate took a recess until tomorrow, Wednesday, May 18, 1938, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate May 17 (legislative day of April 20), 1938

SECURITIES AND EXCHANGE COMMISSION

George C. Mathews, of Wisconsin, to be a member of the Securities and Exchange Commission for the term expiring June 5, 1943. (Reappointment.)

UNITED STATES PUBLIC HEALTH SERVICE

Dr. Jack L. James to be assistant surgeon in the United States Public Health Service, to take effect from date of oath.

PROMOTIONS IN THE NAVY

MARINE CORPS

Lt. Col. Earl C. Long to be a colonel in the Marine Corps from the 7th day of May 1938.

Lt. Col. Selden B. Kennedy to be a colonel in the Marine Corps from the 7th day of May 1938.

Maj. William T. Clement to be a lieutenant colonel in the Marine Corps from the 7th day of May 1938.

Capt. William S. Fellers to be a major in the Marine Corps from the 7th day of May 1938.

First Lt. Charles R. Jones to be a captain in the Marine Corps from the 7th day of May 1938.

First Lt. Clifford H. Shuey to be a captain in the Marine Corps from the 7th day of May 1938.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 17 (legislative day of April 20), 1938

UNITED STATES DISTRICT JUDGE

Thomas A. Murphree to be United States district judge for the northern district of Alabama.

UNITED STATES ATTORNEY

Summerfield S. Alexander to be United States attorney for the district of Kansas.

UNITED STATES MARSHAL

Lon Warner to be United States marshal for the district of Kansas.

WORKS PROGRESS ADMINISTRATION

W. G. Henderson to be State administrator in the Works Progress Administration for Alabama.

PROMOTIONS IN THE NAVY

Royal E. Ingersoll to be rear admiral.
Alger H. Dresel to be captain.
Jacob H. Jacobson to be commander.
James D. L. Grant to be lieutenant.
James E. Kyes to be lieutenant.
Warren H. McClain to be lieutenant.
John G. Gragg to be lieutenant.
Robert H. Taylor to be lieutenant.
Edgar J. MacGregor, 3d, to be lieutenant.
Parke H. Brady to be lieutenant.
Everett O. Rigsbee, Jr., to be lieutenant.
John A. Moreno to be lieutenant.
John F. Tatom to be lieutenant.
John H. Armstrong, Jr., to be lieutenant.
Louis D. McGregor, Jr., to be lieutenant.
Rowland C. Lawver to be lieutenant.
Ray E. Malpass to be lieutenant.
George G. Palmer to be lieutenant.
Joseph B. H. Young to be lieutenant.
Kirke G. Schnoor to be chief radio electrician to rank with but after ensign.
Ormond L. Cox to be rear admiral.
George B. Dowling to be medical inspector with the rank of commander.
Raymond M. Bright to be pay inspector with the rank of commander.
John Flynn to be pay inspector with the rank of commander.
Douglas W. Coe to be naval constructor with the rank of commander.
William J. Malone to be naval constructor with the rank of commander.
Ralph S. McDowell to be naval constructor with the rank of commander.
John D. Crecca to be naval constructor with the rank of commander.
William C. Wade to be naval constructor with the rank of commander.
William R. Nichols to be naval constructor with the rank of commander.
Paul W. Haines to be naval constructor with the rank of commander.
Thomas P. Wynkoop to be naval constructor with the rank of commander.

POSTMASTERS

CALIFORNIA

Gilbert G. Vann, Arbuckle.
Olive G. Nance, Arvin.
James B. Ogden, Avalon.
Charles E. Day, Avenal.
Roy W. Scott, Baldwin Park.
Frederick A. Dickinson, Ben Lomond.
Harry A. Hall, Bigpine.
Joseph V. Gaffey, Burlingame.
Harry B. Hooper, Capitola.
John M. Gondring, Jr., Ceres.
Harold E. Rogers, Chowchilla.
Alice D. Scanlon, Colfax.
Alfred F. Seale, Cottonwood.
Alice E. Schieck, Eldridge.
Frank T. Ashby, Etna.
Bert R. Hild, Fair Oaks.
William D. Mathews, Fort Jones.
Ralph W. Dunham, Greenfield.
Josephine M. Costar, Greenville.
Lena M. Preston, Harbor City.
Anthony J. Foster, Hayward.
George J. Nevin, Huntington Park.
Wood I. Glasgow, Le Grand.
Charles M. Jones, Lodi.
Bert A. Wilson, Los Banos.
Paul W. McGrorty, McCloud.
Joseph T. McInerny, Merced.
John Carlos Rose, Milpitas.
Phillip J. Dougherty, Monterey.
Julia M. Ruschin, Newark.
John T. Ireland, Pico.
Josephine Purcell, Represa.
Merle H. Wiswell, Roseville.
James R. Wilson, Sacramento.
Grace E. Patterson, Samoa.
George H. Treat, San Andreas.
Richard T. Ambrose, Santa Barbara.
Edith E. Mason, Santa Fe Springs.
Charles S. Catlin, Saticoy.
Wesley L. Benepe, Sebastopol.
Robert B. Montgomery, Sequoia National Park.
Arne M. Madsen, Solvang.
Harold B. Lull, South Gate.
William Clyde Brite, Tehachapi.
Elsie B. Lausten, Walnut Grove.
Harry Bridgewater, Watsonville.
Fannie R. Wiley, Winton.

INDIANA

James R. Kelley, Lebanon.
Gordon B. Olvey, Noblesville.
Patrick D. Sullivan, Whiting.

HOUSE OF REPRESENTATIVES

TUESDAY, MAY 17, 1938

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our blessed Heavenly Father, look down upon us from Thy throne of grace and hear our prayer. Forgive our sins, be gracious unto us, and help us to be true to ourselves in all that pertains to our private and public demeanor. In all situations may we prove ourselves worthy of the honor and the dignity our country has bestowed upon us. Blessed Lord God, enable us to approach duties and responsibilities calmly and undisturbed, remembering that he who is slow to anger is better than the mighty, and he that ruleth his spirit is better than he that taketh a city. Make us zealous in all good works that we may come unto the measure of the stature of the fullness of Christ. Unto Him be eternal praises, world without end. Amen.

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

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Latta, one of his secretaries, who also informed the House that on the following dates the President approved and signed joint resolutions and bills of the House of the following titles:

On May 11, 1938:

H. J. Res. 141. Joint resolution to authorize the issuance to Sekizo Takahashi of a permit to reenter the United States; and

H. R. 9286. An act to extend the time for completing the construction of a bridge across the Ohio River at or near Cairo, Ill.

On May 12, 1938:

H. R. 1904. An act for the relief of Florenz Gutierrez;

H. R. 4564. An act for the relief of the Floridian Press of Jacksonville, Inc., Jacksonville, Fla.;

H. R. 6803. An act for the relief of Mrs. Newton Petersen; and

H. R. 9415. An act to amend the act entitled "An act to establish a Civilian Conservation Corps, and for other purposes," approved June 28, 1937.

On May 13, 1938:

H. J. Res. 623. Joint resolution making available additional funds for the United States Constitution Sesquicentennial Commission;

H. J. Res. 636. Joint resolution to authorize an appropriation for the expenses of participation by the United States in the Fourth International Conference on Private Air Law;

H. R. 4340. An act for the relief of J. F. Stinson;

H. R. 4819. An act for the relief of Joseph Zani;

H. R. 5623. An act for the relief of Darwin Engstrand, a minor;

H. R. 6656. An act making the 11th day of November in each year a legal holiday;

H. R. 7601. An act for the relief of Eula Scruggs;

H. R. 7675. An act for the relief of Newark Concrete Pipe Co.;

H. R. 8403. An act to ratify and confirm Act 23 of the Session Laws of Hawaii, 1937, extending the time within which revenue bonds may be issued and delivered under Act 174 of the Session Laws of Hawaii, 1935;

H. R. 9042. An act to amend section 2 of the act to incorporate The Howard University;

H. R. 9198. An act for the relief of certain disbursing officers of the Army of the United States and for the settlement of individual claims approved by the War Department;

H. R. 9526. An act to amend the act of May 27, 1908, authorizing settlement of accounts of deceased officers and enlisted men of the Navy and Marine Corps;

H. R. 9725. An act to liberalize the provisions of existing laws governing death-compensation benefits for widows and children of World War veterans, and for other purposes;

H. R. 9973. An act to improve the efficiency of the Lighthouse Service, and for other purposes; and

H. R. 10085. An act to authorize the payment of an indemnity to the Norwegian Government in full and final satisfaction of all claims based on the detention and treatment of the crew of the Norwegian steamer *Sagatind* subsequent to the seizure of this vessel by the United States Coast Guard cutter *Seneca* on October 12, 1924.

On May 16, 1938:

H. J. Res. 150. Joint resolution to permit a compact or agreement between the States of Idaho and Wyoming respecting the disposition and apportionment of the waters of the Snake River and its tributaries, and for other purposes;

H. R. 1249. An act for the relief of L. M. Crawford;

H. R. 1930. An act for the relief of William H. Ames;

H. R. 3609. An act to protect the salaries of rural letter carriers who transfer from one rural route to another;

H. R. 4275. An act to correct United States citizenship status of certain persons born in Puerto Rico, and for other purposes;

H. R. 6479. An act for the relief of Guy Salisbury, alias John G. Bowman, alias Alva J. Zenner;

H. R. 7259. An act to authorize the conveyance by the United States to the city of Ketchikan, Alaska, of a certain tract of land in the town site of Ketchikan;

H. R. 7443. An act for the relief of Wilson H. Parks, Elsa Parks, and Jessie M. Parks;

H. R. 7500. An act for the relief of Shelba Jennings;

H. R. 9349. An act for the relief of the Nicolson Seed Farms, a Utah corporation;

H. R. 9601. An act to amend the acts for promoting the circulation of reading matter among the blind;

H. R. 9760. An act to amend the act of March 2, 1899, as amended, to authorize the Secretary of War to permit allotments from the pay of military personnel and permanent civilian employees under certain conditions;

H. R. 9764. An act to authorize an appropriation for reconstruction at Fort Niagara, N. Y., to replace loss by fire;

H. R. 9784. An act to authorize an appropriation to aid in defraying the expenses of the observance of the seventy-fifth anniversary of the Battle of Gettysburg, to be held at Gettysburg, Pa., from June 29 to July 6, 1938, and for other purposes; and

H. R. 10066. An act to amend the District of Columbia Revenue Act of 1937, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Frazier, its legislative clerk, announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill and joint resolution of the House of the following titles:

H. R. 10140. An act to amend the Federal Aid Road Act, approved July 11, 1916, as amended and supplemented, and for other purposes; and

H. J. Res. 678. Joint resolution making an additional appropriation for grants to States for unemployment-compensation administration, Social Security Board, for the fiscal year ending June 30, 1938.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 3699. An act authorizing the Library of Congress to acquire by purchase, or otherwise, the whole, or any part, of the papers of Charles Cotesworth Pinckney and Thomas Pinckney, including therewith a group of documents relating to the Constitutional Convention of 1787, now in the possession of Harry Stone, of New York City; and

S. 3845. An act to create a Civil Aeronautics Authority, and to promote the development and safety and to provide for the regulation of civil aeronautics.

The message also announced that the Senate insists upon its amendment to the bill (H. R. 7158) entitled "An act to except yachts, tugs, towboats, and unrigged vessels from certain provisions of the act of June 25, 1936, as amended," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. COPELAND, Mr. SHEPPARD, Mr. BAILEY, Mr. JOHNSON of California, and Mr. WHITE to be the conferees on the part of the Senate.

The message also announced that the Vice President had appointed Mr. BARKLEY and Mr. GIBSON members of the Joint Select Committee on the part of the Senate, as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," for the disposition of executive papers in the Navy Department.

EXTENSION OF REMARKS

Mr. PETERSON of Georgia. Mr. Speaker, I ask unanimous consent to insert in the RECORD a speech made at Savannah, Ga., by Postmaster General James A. Farley.

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

There was no objection.

Mr. BOYER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the life of Tom Baldwin, an early aviator.

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

There was no objection.

Mr. DICKSTEIN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD, and include therein a radio address I delivered on the Columbia network on May 14.

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

There was no objection.

Mr. DOCKWEILER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD on the subject of labor and wages and hours, and I also ask unanimous consent to extend my remarks in the RECORD on the subject of the National Youth Administration.

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

There was no objection.

Mr. GRAY of Indiana. Mr. Speaker, I ask unanimous consent to extend the time for filing my extension of remarks on the relief bill.

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

There was no objection.

Mr. CONNERY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include the essay of Thomas J. Owens, prize winner in Massachusetts of the air-mail essay contest.

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

There was no objection.

Mr. RAMSPECK. Mr. Speaker, I ask unanimous consent to extend my remarks in the Appendix of the RECORD by printing an editorial from the New York Times of May 16 on wages and hours.

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

There was no objection.

Mr. BOEHNE. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include therein a letter received from a constituent.

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

There was no objection.

Mr. LEMKE. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD, and I also ask unanimous consent to extend my remarks in the RECORD and include therein an editorial on the Philippine situation in the Philippine-American Advocate.

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

There was no objection.

AMENDMENT TO THE FEDERAL RESERVE ACT

Mr. GOLDSBOROUGH. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 7187) to amend section 12B of the Federal Reserve Act, as amended, which was passed by the House by unanimous consent and passed by the Senate with simply a clarifying amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 3, strike out "(1)" and insert: "(1)."

Page 2, line 15, strike out all after "the" down to and including "stock;" in line 20, and insert: "date this paragraph as amended takes effect, the Corporation shall waive, in favor only of any person against whom stockholders' individual liability may be asserted, any claim on account of such liability in excess of the liability, if any, to the bank or its creditors, for the amount unpaid upon his stock in such bank; but any."

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

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

ORDER OF BUSINESS

Mr. GOLDSBOROUGH. Mr. Speaker, I ask unanimous consent to take up on Friday next, under the general rules of the House, with general debate limited to not more than 1 hour, the joint resolution (H. J. Res. 655) which will remove the limitation of time which is now fixed as July 1, 1938, within which the Federal Deposit Insurance Corporation may make loans to insured banks or purchase assets of insured banks to facilitate mergers and consolidations with other insured banks. I make the same request with regard to the bill (H. R. 10608) relating to loans to railroads by the Reconstruction Finance Corporation, and for other purposes; and also with respect to the slum-clearance bill, provided the Committee on Banking and Currency can report the bill in the meantime.

The SPEAKER. Does the gentleman desire to incorporate in his request the control of the time?

Mr. GOLDSBOROUGH. I ask that the time be equally divided and controlled by the gentleman from Michigan [Mr. WOLCOTT] and myself.

The SPEAKER. The gentleman from Maryland asks unanimous consent that on Friday next it may be in order to take up in sequence the bills indicated by him, general debate on each bill to be limited to not more than 1 hour, to be equally divided and controlled by himself and the gentleman from Michigan [Mr. WOLCOTT], the bills to be considered under the general rules of the House.

Is there objection?

Mr. WOLCOTT. Reserving the right to object, Mr. Speaker, I believe we could probably dispose of House Joint Resolution 655, the F. D. I. C. bill, in the time requested by the gentleman from Maryland. As I understand, the gentleman's request provides for an hour of general debate on each side?

Mr. GOLDSBOROUGH. No; not an hour on each side, but an hour altogether, to be equally divided. We are trying to take up three bills in one afternoon.

Mr. WOLCOTT. Yes. I believe House Joint Resolution 655, the F. D. I. C. bill, can be considered in that time. As far as I am concerned, I shall have no objection to the gentleman taking that bill up under the rules of the House.

However, H. R. 10608, the railroad bill, presents a little different picture. This bill is more or less controversial. I have had several requests on our side for time. I believe we should give a great deal of consideration to the bill. The debates on that question will involve the general financial condition of the railroads, the necessity for rendering this aid, and the necessity for a departure from R. F. C. procedure in behalf of the railroads.

The SPEAKER. Would the gentleman from Maryland have any objection to submitting these requests separately? The Chair is of the opinion it would contribute to more orderely procedure if the requests were submitted individually.

Mr. GOLDSBOROUGH. Mr. Speaker, my first request is with respect to the joint resolution (H. J. Res. 655) which will remove the limitation of time which is now fixed as July 1, 1938, within which the Federal Deposit Insurance Corporation may make loans to insure banks or purchase assets of insured banks to facilitate mergers and consolidations with other insured banks. I ask unanimous consent that on Friday next this resolution may be considered under the general rules of the House, with general debate limited to not more than 1 hour, one-half of the time to be controlled by the gentleman from Michigan [Mr. WOLCOTT] and one-half by me.

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

Mr. MOTT. Reserving the right to object, Mr. Speaker, I understood the flood-control bill is coming up Thursday. I do not know the amount of time that has been determined upon for debate. I would like to ask the majority leader whether a vote on the flood-control bill will come on Thursday?

Mr. RAYBURN. We hope so. If not on Thursday, of course, we would finish the consideration of that bill on Friday before these requests would be in order.

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

There was no objection.

Mr. GOLDSBOROUGH. Mr. Speaker, I ask unanimous consent that the bill H. R. 10608, with respect to loans to railroads by the R. F. C., may be taken up under the general rules of the House on Friday following the consideration of House Joint Resolution 655 and that the time in general

debate be limited one hour and a half, one-half to be controlled by the gentleman from Michigan and one-half by myself, the debate to be confined to the bill.

Mr. WOLCOTT. Reserving the right to object, Mr. Speaker, that is a bill about which I have been speaking that is somewhat controversial. I have had several requests for time. It was my original understanding, or thought, at least, that we would have an hour on this side for general debate. I do not see how we can get along with any less time than that. If the gentleman will modify his request so there would be an additional hour of general debate in addition to the debate under the 5-minute rule——

Mr. GOLDSBOROUGH. I modify the request, Mr. Speaker, and ask unanimous consent that 1 hour of the time be controlled by the gentleman from Michigan and one-half hour by myself.

The SPEAKER. Is there objection to the request of the gentleman from Maryland, as modified?

There was no objection.

Mr. GOLDSBOROUGH. Mr. Speaker, in case the Committee on Banking and Currency is able to report a slum-clearance bill by Friday, I ask unanimous consent that that bill may also be taken up on Friday under the general rules of the House, general debate to be confined to the bill and limited to 1 hour and a half, one-half to be controlled by the gentleman from Michigan and one-half by myself.

Mr. WOLCOTT. Mr. Speaker, reserving the right to object, much as I want to expedite the consideration of all of these bills, I do not see how it is possible at this particular moment to agree to take up the housing bill. The matter is in controversy in the committee. We have not reported the bill out as yet, and that bill, regardless of the manner in which it is reported by the committee, is going to be highly controversial. I have not had any requests for time because the Members on our side do not know in what form the bill will appear for consideration. I hope the gentleman will not insist upon this request, because although I want to expedite the consideration of that bill if it is reported out, we are not in position at the present time to know how much time we may need or what the issues are going to be.

Mr. GOLDSBOROUGH. I withdraw the request with respect to that bill for the present, Mr. Speaker.

VETO MESSAGE OF THE PRESIDENT OF THE UNITED STATES—M'SHAIN CO., INC. (H. DOC. NO. 646)

The SPEAKER laid before the House the following veto message from the President of the United States, which was read, as follows:

To the House of Representatives:

I return herewith, without my approval, House bill No. 906, entitled "An act for the relief of McShain Co., Inc."

This bill proposes to confer jurisdiction on the Court of Claims to adjudicate the claim of the McShain Co. against the United States for damages said to have been sustained by it as the result of an alleged failure or delay on the part of the Government to settle and adjust a strike during the construction of the Annex to the Library of Congress.

It appears that on January 3, 1934, the Architect of the Capitol entered into a contract with McShain Co., Inc., by which the latter undertook to make the excavation and construct the foundations for the Annex to the Library of Congress. By reason of a carpenters' strike the work under the contract was suspended for a period of 69 days. The Government remitted all liquidated damages that accrued during that period.

The contractor, however, claims that he was caused damages in the sum approximating $30,000 by reason of the suspension of the work and seeks to recover this amount. The purpose of the bill is to permit him to bring suit against the United States for such damages in the Court of Claims.

The contract contained a provision that all labor issues arising thereunder which could not be satisfactorily adjusted by the contracting officer should be submitted to the Joint Commission to Acquire a Site and Additional Buildings for the Library of Congress. The contractor apparently contends that Government officials did not make sufficient efforts under this provision to secure an expeditious settlement of the strike.

If the United States committed any breach of its agreement, the contractor may maintain an action in the Court of Claims under the general jurisdiction of that tribunal. No special legislation is necessary for that purpose. The object of the bill seems to be, however, to create a cause of action which would not exist under present law, even if the United States were suable as an individual or private corporation and waived its immunity.

It does not appear that any act of the Government contributed to bringing about the strike or caused its prolongation. There seems to be no reason why the losses caused to the contractor as a result of the strike should be assumed by the Government. This is one of the risks of the enterprise which the contractor must bear.

In view of the foregoing considerations, I am constrained to withhold my approval from this measure.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *May 17, 1938.*

The SPEAKER. The objections of the President will be spread at large upon the Journal.

Mr. KENNEDY of Maryland. Mr. Speaker, I move that the bill and message be referred to the Committee on Claims and ordered printed.

The motion was agreed to.

AMENDMENT OF THE FEDERAL-AID ROAD ACT

Mr. CARTWRIGHT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 10140) to amend the Federal Aid Road Act, approved July 11, 1916, as amended and supplemented, and for other purposes, with Senate amendments, disagree to the Senate amendments, and ask for a conference.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma? [After a pause.] The Chair hears none, and appoints the following conferees: Messrs. CARTWRIGHT, WARREN, WHITTINGTON, WOLCOTT, and MOTT.

CALENDAR WEDNESDAY

The SPEAKER. Under the previous order of the House heretofore entered, today is Calendar Wednesday. The Clerk will call the committees.

Mr. KENNEDY of Maryland (when the Committee on Claims was called). Mr. Speaker, by direction of the Committee on Claims, I call up the bill (S. 3526) to provide for reimbursing certain railroads for sums paid into the Treasury of the United States under an unconstitutional act of Congress, and pending that, Mr. Speaker, I ask unanimous consent that the bill may be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

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

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to certain railroad companies, and trustees and receivers thereof, a sum not to exceed $139,000, said sums having been paid into the Treasury of the United States by order of the Railroad Retirement Board created by the act of Congress of June 27, 1934, known as Railroad Retirement Act, and which act was on May 6, 1935, declared unconstitutional by the Supreme Court of the United States.

SEC. 2. Any railroad which has made a payment into the Treasury of the United States by reason of the order mentioned in section 1 hereof may file its claim for reimbursement with the Secretary of the Treasury, and the Secretary shall examine the claim, and if it is found to be correct shall issue his warrant therefor, all in accordance with such rules and regulations as the Secretary of the Treasury may adopt.

With the following committee amendments:

Page 1, line 5, after the word "appropriated", strike out the words "to certain railroad companies, and trustees, and receivers thereof" and insert "including the balance remaining in the fund in the Treasury designated 'Railroad retirement trust fund', to the

railroad companies and other carriers of the United States, their trustees or receivers, their proportionate share of."

Page 2, line 1, strike out "said sums having been" and insert "in full settlement of all their claims against the United States for a refund of sums."

Page 2, line 8, strike out all of section 2 and insert:

"SEC. 2. Claims for refund hereunder shall be filed within 1 year from the approval of this act, and the Secretary of the Treasury may promulgate such rules and regulations as he deems necessary for carrying out the purpose of this act."

The committee amendments were agreed to.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The title was amended so as to read: "An act to refund sums paid by the railroads and other carriers of the United States under the Railroad Retirement Act of 1934."

Mr. KENNEDY of Maryland. Mr. Speaker, that is all of the business that the Committee on Claims has today.

Mr. RAYBURN. Mr. Speaker, I ask unanimous consent that further proceedings under the call for Calendar Wednesday be dispensed with.

The SPEAKER. Is there objection?

Mr. BOILEAU. Mr. Speaker, I reserve the right to object. The request made the other day by the gentleman from Texas was that business on Calendar Wednesday be in order today. Did the gentleman's request at that time include suspension of Calendar Wednesday business tomorrow? In other words, are we also going to have Calendar Wednesday business tomorrow?

Mr. RAYBURN. No. I am making this request for this reason: The Committee on Claims has been called. The Committee on War Claims is the next committee on the call. They have no business in order but an omnibus war claims bill, and the Committee on Claims has an omnibus bill. It is my intention now to ask that those two bills be made in order today.

Mr. BOILEAU. The only point I make is this: I did not think the request made the other day was clear to the effect that tomorrow business on Calendar Wednesday would be dispensed with.

My RAYBURN. My request was that the business in order tomorrow be transacted today, with the further request that we go on tomorrow with the civil aviation bill.

Mr. Speaker, I ask unanimous consent that the omnibus war claims bill may be in order at this time.

The SPEAKER. Is there objection?

Mr. DICKSTEIN. Mr. Speaker, I reserve the right to object. I would like to know why the Committee on Immigration has been passed over so many times. We have some important legislation affecting human life. Some 60 or 70 bills were reported out. We were passed by four or five times for the purpose of giving the administration the right-of-way. Everyone seems to get ahead of the Committee on Immigration, and I shall be compelled to object unless I can get some definite information when we can proceed.

Mr. RAYBURN. So far as I am concerned, I am going to try to arrange to give the gentleman time on these bills, but there has been so much pressure over these two committees that have stood aside just as the gentleman's committee did, without calling up their omnibus bills, that I wanted very much to get those two bills out of the way.

Mr. DICKSTEIN. All we had was 1 day on Calendar Wednesday, and that was a year ago. I have been cooperating with the gentleman to get the right-of-way for a lot of legislation, and we have been passing by a lot of our days on omnibus bills. We have five omnibus bills. The gentleman has cleared up everything except the Committee on Immigration.

Mr. RAYBURN. That committee had not been reached.

Mr. DICKSTEIN. And on the gentleman's present program it will be reached after Congress adjourns. It seems to me, in view of the fact that I have been cooperating with the gentleman in giving the right-of-way, that he ought to do something for our committee.

Mr. RAYBURN. These bills may not take up such a long time, and we might possibly get to the gentleman's committee this afternoon.

Mr. DICKSTEIN. Oh, I could not possibly do that.

The SPEAKER. Is there objection?

There was no objection.

OMNIBUS WAR CLAIMS BILL (H. R. 9284)

The SPEAKER. The Clerk will report the omnibus claims bill reported by the Committee on Claims.

The Clerk read as follows:

Title I—(H. R. 2171. For the relief of Frank Burgess Bruce)

That the Administrator of Veterans' Affairs be, and he is hereby, authorized and directed to pay to Frank B. Bruce, of Savannah, Ga., the father of Ashmead Ferguson Bruce, late a private, first class, in Battery F, Sixty-first Regiment, Coast Artillery Corps, discharged March 1, 1919, all such installments of moneys remaining unpaid on war-risk insurance certificate No. T-1016361.

Mr. COSTELLO. Mr. Speaker, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. COSTELLO: Page 1, strike out all of title I.

The SPEAKER. The gentleman from California is entitled to 5 minutes.

Mr. COSTELLO. Mr. Speaker, the first title in this war claims omnibus bill provides for the payment of approximately $340, balance due on an insurance policy, taken out by a veteran during the World War. The policy lapsed because of nonpayment of premiums on May 1, 1919. The veteran died on July 15, 1919. However, on the day prior to his death he prepared checks in payment of 3 months' installments of premiums due. He gave the letter to his younger brother with instructions to mail it. On the following day, the day of the veteran's death, the younger brother deposited the letter in the mail box. However, it was not until 4 days later that this premium payment was actually received by the Veterans' Administration. The Veterans' Administration takes the stand that in view of the fact that the premium was not received until after the death of the veteran, it was impossible to reinstate the policy. In order to reinstate a policy that has once lapsed, it is necessary to pay the months that are past due, as well as the current installment. An effort was made by this veteran to do that, but it was not completed prior to the time of his death. The Veterans' Administration did pay to the beneficiary of the insurance policy the sum of $9,660 before it detected the fact that it was making those payments in error. No effort was made to recover the amount of money thus erroneously paid. This bill is merely an effort to recover the balance of $340. The only item really involved in this bill is the question of principle and, possibly, precedent. In other words, if this bill is to be passed, there is a possibility that like cases will be brought up in which larger sums than $340 are involved. For that reason the Veterans' Administration is opposed to the passage of the bill.

Mr. PETERSON of Georgia. Mr. Speaker, there is no issue in this claim except the fact that this veteran just previous to his death, which was occasioned by an accident, made every arrangement to pay the premium due on this insurance policy and delivered this money to the United States Post Office Department. After he had made this delivery and before it was received by the Veterans' Administration, this veteran died. These facts are conceded by everyone, including the Veterans' Administration.

The Government, recognizing the justice of this claim of $10,000, proceeded to pay on it up to $9,660 over a period of 10 years or longer. Then this technicality, which is strictly a technicality, arose upon review of this case, which had previously been adjudicated in favor of beneficiaries of policy, and payments were stopped. As for its setting a precedent, Mr. Speaker, it should be a precedent, because this veteran had done his part and there was no way on earth that this veteran could do anything further, because he had made the payment; but he died before the Veterans' Administration actually received it, and this claim should be paid in full.

The Government itself has made no effort to regain the $9,660, and the Government in no instance says that this veteran's estate owes to the Government $9,660 already paid under this policy.

The situation at the present time is that this veteran's family proceeded to secure a loan from the Federal Government through the Home Owners' Loan Corporation upon their home, expecting the income from this fund now due by the Government to help pay off this loan.

The situation today is that this poor veteran's family is in destitute circumstances, and the Government is threatening to foreclose. They are going to lose their home because they do not have this money which they had every right to expect the Government to pay and which they obligated themselves to pay back to the Government in repayment of the loan the Government made. If this is not an instance of the Government through a technicality saving at the spiggot and wasting at the bunghole, I have never heard of one. It appears to me that when the Veterans' Administration comes in on such a flimsy technicality, certainly this body is not going to repudiate this obligation, but that Congress, through enactment of this bill, will overcome this technicality and help this good family to get these few dollars on this claim which belongs to them by every moral law on earth. I certainly trust this House will see fit to vote down this amendment and to permit this claim.

The SPEAKER. The question is on the amendment offered by the gentleman from California.

The amendment was rejected.

JOSEPH NOEL ROBERTS

The Clerk read as follows:

Title II—(H. R. 2345. For the relief of Joseph Noel Roberts)

That the Administrator of Veterans' Affairs be, and he is hereby authorized and directed to pay to Joseph Noel Roberts (C-2092408) disability-compensation benefits on account of his World War service-connected disability for the period of time during which he would have been entitled to such benefits had payment therefor not been barred by the fact that he was in receipt of retirement pay as a member of the Fleet Naval Reserve: *Provided*, That the Administrator of Veterans' Affairs shall cause to be deducted from such disability compensation award the total amount of retirement pay disbursed to the said Joseph Noel Roberts during the period provided in this act.

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

The Clerk read as follows:

Amendment offered by Mr. HALLECK: On page 2, strike out all of title II.

Mr. HALLECK. Mr. Speaker, I did not object to the bill when it was called on the Private Calendar, but I have offered this amendment in order that the issue presented by this bill may be considered by the House.

The facts involved, as I understand them, are that this claimant, Joseph Noel Roberts, enlisted in the Navy in 1912 and served in successive enlistments in the Navy throughout the World War and until 1929, when he was transferred to the Naval Fleet Reserve. Subsequent to that time he was entered upon the retirement rolls of the Naval Fleet Reserve and drew pay at the rate of about $48 a month from 1932 to 1935, when he was dropped from the retirement roll.

After he entered on the retirement roll he filed a claim with the Veterans' Administration for a service-connected disability arising out of his service in the Navy during the war. That claim was filed in 1932. The first action of the Veterans' Administration was against him on the claim. Subsequently it was reconsidered and an award was made for an eye failure, an eye condition arising out of his service in the World War.

The award made under the compensation claim is a greater amount than the amount paid to him on the retirement roll; and this action is to permit the Veterans' Administration to pay to the claimant the difference between what he drew on the retirement rolls and what would have been paid him under the award for compensation granted. Award for compensation is now being paid to him at the rate of $200 per month.

I think the most effective presentation can be made by reading a statement by Frank T. Hines, Administrator of the Veterans' Bureau. I read:

In this connection, it is desired to point out that there is no authority in law to award disability compensation or pension to a veteran as long as he is in receipt of retirement pay as a member of the Fleet Naval Reserve. The receipt of naval retirement pay cannot be waived in order to receive payments of disability compensation or pension and such benefits may not be awarded unless and until the veteran is discharged from the naval service. The fact that at the time service connection was granted, based on reconsideration, a rating was made over a retrospective period during which retirement pay was received, would not alter the circumstances in this case.

Then the general has this to say:

In view of the foregoing, and the fact that this case does not present any circumstances rendering it any more meritorious than others in which the payment of monetary benefits have been denied for similar reasons, the proposed measure is not recommended to the favorable consideration of your committee.

In other words the Veterans' Administration opposes the enactment of this title because it seeks to treat differently one particular person as against other persons similarly situated. It seems to me that if the general law is wrong and it is possible to waive retirement pay and pay compensation that is in a greater amount, that the general law in that regard should be changed to the end that everyone similarly situated be accorded similar treatment. I think that is the only issue presented. Of course, a strong moral claim can be made for payment of this fund as requested by the title, but it simply involves a difference of one individual for whom a private bill is filed as against others who have not for some reason or other sought to avail themselves of this opportunity.

[Here the gavel fell.]

Mr. GREEN. Mr. Speaker, I rise in opposition to the amendment.

I call the attention of my colleagues to the unusually good record of this totally blind war veteran.

The claim of Joseph Noel Roberts is one of the most meritorious ones which I have ever known. He had a long and faithful record of service in the United States Navy from the time of first enlistment on November 19, 1912, until his transfer to the Fleet Naval Reserve on August 27, 1929. On March 15, 1932, he was retired from the naval service with pay at the rate of $48.80 monthly. The evidence in his files shows he immediately thereafter filed claim for compensation benefits because of fading eyesight caused by his military service during the period of the World War and later his ailment was held to be compensatory, due to service-connected disability of atrophy of optic nerve, bilateral. It was ruled at that time by the Veterans' Administration that the decision was retroactive from the filing of the first claim immediately on retirement. Under the law, there is no authority for payment of disability compensation or pension benefit to a veteran who is in receipt of retirement pay as a member of the Naval Reserve Fleet. This factor prevented the Veterans' Administration from paying to Roberts the moneys due him each month. He, all of the time, was eligible to service-connected compensation, but the Veterans' Administration could not pay it under existing law.

The Veterans' Bureau, it appears, desired to pay the difference in retirement pay and the service-connected disability compensation, but it had no authority to do so. It admitted it should be paid, but there was no authority of law by which they could pay to him this difference. All this bill does is deduct his hospital fees that he received and deduct the payments that he received as a retired naval officer of some 17 years' service and give him the difference between that retirement pay and service-connected disability compensation.

Mr. Speaker, this undoubtedly is an obligation of the Federal Government. If the veteran has a service-connected status and is now drawing service-connected compensation—and that is the case—and if the Veterans' Administration is prohibited from paying out this money, and that is the case, then it is a technicality, and the veteran is really entitled to

this payment. May I call the attention of the House to the fact that I am personally acquainted with this veteran. He is totally blind and has a family. He wanted to come before the committee. I mentioned this to the chairman, the gentleman from New York. Local persons were going to assist him in coming up here. The chairman stated, "Do not bring the veteran up here." The chairman said, "Do not make him go to that trouble and expense; we will give every possible consideration."

Mr. Speaker, the committee considered this matter thoroughly from every angle and held that it was a just claim and that the veteran was entitled to this payment. I sincerely hope my colleagues will vote down this amendment and permit him to have that to which he is justly entitled.

Suppose that you had been discharged from the Navy on account of a service-connected disability. Of course, he got his retirement pay and he went along with it. Then later someone told him, "You are entitled to service-connected compensation." He applied, and the Veterans' Administration granted him compensation, but there is no place in the law permitting them to do that.

Mr. Speaker, if there are other cases similarly situated, I as a Member of Congress feel it my responsibility to cooperate with the proper committee to pass a general law to take care of the situation or to pass a private or special law to take care of any case which may be similar. Therefore I sincerely urge my colleagues, as this is a very meritorious case and the veteran is entitled to this compensation, to vote down the amendment so that he may have this compensation. His service was long and honorable and included the entire period of the World War. The claim is meritorious and should now be paid.

[Here the gavel fell.]

The SPEAKER. The question is on the amendment offered by the gentleman from Indiana [Mr. HALLECK].

The amendment was rejected.

The Clerk read as follows:

Title III—(H. R. 3232. Conferring jurisdiction upon the Court of Claims of the United States to hear, consider, and render judgment on the claims of Joliet National Bank, of Joliet, Ill., and Commercial Trust & Savings Bank, of Joliet, Ill., arising out of loans to the Joliet Forge Co., of Joliet, Ill., for the providing of additional plant facilities and material for the construction of steel forgings during the World War)

That jurisdiction is hereby conferred upon the Court of Claims of the United States, whose duty it shall be notwithstanding the lapse of time or the bar of any statute of limitations or any previous decisions by any court, board, or commission, to hear, consider, and render judgment against the United States in favor of said Joliet National Bank, of Joliet, Ill., and said Commercial Trust & Savings Bank, of Joliet, Ill., or either of them, or any receiver or successor of either of them, for any losses that said Joliet National Bank and said Commercial Trust & Savings Bank, or either of them, may have sustained as a result of loans made by said Joliet National Bank and said Commercial Trust & Savings Bank, or either of them, to the Joliet Forge Co., of Joliet, Ill., for the purpose of providing and furnishing additional plant facilities, equipment, or materials for the construction of steel forgings during the World War as if the same were claims against the United States; and any other legal or equitable claims arising out of the transactions in connection therewith: *Provided*, That separate suits may be brought by each of said Joliet National Bank and Commercial Trust & Savings Bank or their receivers or successors, or both may be joined in one suit and separate judgments may be rendered according as their separate interests may appear, but no suit shall be brought after the expiration of 1 year from the effective date of this act: *Provided further*, That any evidence or testimony heretofore offered before any court, board, or commission with respect to these transactions, together with the exhibits therein offered, may be introduced before the Court of Claims, with the full force of depositions, subject to objections as to relevancy and materiality: *And provided further*, That either party shall have the same right to a review by the Supreme Court of the United States of any decision by the Court of Claims as now exists by law in other cases decided by the Court of Claims.

Mr. COSTELLO. Mr. Speaker, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. COSTELLO: Page 2, beginning in line 15, strike out "of title III."

Mr. COSTELLO. Mr. Speaker, the present title in this claims bill would authorize two banks to bring suit in the Court of Claims against the United States Government. If you read the language of the bill it will definitely show that those two banks had no contractual relationship with the Government, because the language of the bill states that they can bring these actions, "as if the same were claims against the United States." If there is any claim at all arising out of the facts covered by this title, that claim should be brought by the Joliet Forge Co. or its successors in interest, against the United States Government. There is absolutely no reason why the two banks from which the Joliet Forge Co. borrowed money should be allowed to sue the Government because of some purported or alleged situation existing between the Joliet Forge Co. and the Government.

Mr. Speaker, I want the Members to fully understand the situation. As far as these two banks are concerned, they have absolutely no relationship whatsoever with the Government and there is no justification for allowing them to go into the Court of Claims and sue the Government on claims arising out of transactions with which these banks were not directly connected.

This Forge Co. was producing wartime materials. The claim in this bill is for $93,000, and arises out of the expansion of the plant, which the company alleges was done at the request of an agent of the United States Shipping Board. If this be so, no agent of the Shipping Board had authority or right to direct this company in any way to expand its plant. If he did so he was exceeding his authority.

Another point I wish to bring out is that the business of the Joliet Forge Co. was only 7 percent related to shipping interests; in other words, out of the total business this company was doing, only 7 percent was with the United States Shipping Board. Therefore, it would seem that only 7 percent of the increase in the plant, if any, should be charged against the Government, if it is to be charged against the Government, and not the full amount.

On November 10, 1919, the Joliet Forge Co. made a claim upon the War Department for $56,000 by reason of the expansion of its plant. Approximately 8 months later, on July 30, 1920, it filed a claim with the Shipping Board for $101,000, almost double the amount it had alleged was due from the War Department. Subsequently, in November of 1920, it filed an amended claim in the sum of $93,000, and this amount is the basis of the bill now under consideration.

I also wish to call to the attention of the Members the fact that every possible defense the Government might have against this claim is being waived. Actually, all we are authorizing the Court of Claims to do is to determine the amount of damages and to direct the payment of that amount to these two banks in Illinois; not to the Forge Co., which might have some color of claim, but to the two banks.

For these reasons, Mr. Speaker, it is my contention that this bill should not be allowed to pass, and I trust the House will adopt the amendment I have offered.

Mr. REED of Illinois. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, this bill was introduced as a result of conditions that prevailed during the World War. At that time the Joliet Forge Co., located at Joliet, Ill., was engaged in making forgings for the United States Government. The demand for these forgings became so insistent that the Government, through the agents of the Shipping Board, went to the Forge Co. in Joliet and asked them to expand their plant 300 percent, at the same time informing them that if they could not obtain the loan from the local banks an attempt would be made to get it for them from the Government. The Joliet Forge Co. in compliance with the request of the agents of the Government did expand the plant and commenced to bring out the manufactured product. By that time the armistice was signed and there was no further use for the product manufactured by the Forge Co. The result of this was that the plant was enlarged 300 percent and the Forge Co. as a result thereof went bankrupt. The two banks in Joliet which had loaned this money had the notes of the Joliet Forge Co. on hand, but there were no

assets available from which they could be paid, and the result is that both banks went into receivership.

This bill does not specify any particular amount that may be due from the United States Government for losses sustained by either one of these banks but merely allows the banks to sue in the Court of Claims and have the Court of Claims determine whether there is any loss and if the Government is responsible for such loss.

The Department of Commerce, in commenting upon this bill, has said:

The Shipping Board Bureau recommends that the Department place itself upon record as not opposed to the enactment of H. R. 8095.

I trust the House will act favorably, as the Department has, upon this bill.

The SPEAKER. The question is on the amendment of the gentleman from California [Mr. COSTELLO].

The amendment was rejected.

COMMITTEE ON THE JUDICIARY

Mr. MURDOCK of Utah. Mr. Speaker, by direction of Subcommittee No. 1 of the Committee on the Judiciary, I ask unanimous consent that this subcommittee may be permitted to sit during the session of the House today.

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

There was no objection.

OMNIBUS WAR CLAIMS BILL

The Clerk read as follows:

Title IV—(H. R. 5006. For the relief of DeWitt F. McLaurine)

That the Administrator of Veterans' Affairs is hereby authorized and directed to consider the United States Government life-insurance policy (K-828317) issued in favor of DeWitt F. McLaurine as a valid contract, and he is hereby authorized and directed to pay to DeWitt F. McLaurine monthly installments of insurance in the amount of $28.75 each, effective January 29, 1929, the date of permanent and total disability under such contract of the United States Government life insurance, such payments to continue during permanent and total disability. If death of DeWitt F. McLaurine shall occur before 240 equal monthly installments have been paid, the remainder of 240 equal monthly installments shall be paid to the designated beneficiary, or in the absence of a designated beneficiary to the estate of DeWitt F. McLaurine: *Provided*, That the Administrator of Veterans' Affairs is authorized and directed to refund to DeWitt F. McLaurine all premiums paid under such contract of insurance for the month of February 1929 and subsequent thereto.

With the following committee amendment:

Page 5, line 2, strike out the proviso ending in line 5.

The committee amendment was agreed to.

Mr. HANCOCK of New York. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HANCOCK of New York: Page 4, strike out all of title IV.

Mr. HANCOCK of New York. Mr. Speaker, this claim is for benefits under a war-risk insurance policy. The veteran claims complete and permanent disability and asks for the maximum benefits under a $5,000 policy, which is $28.75 a month. The claim is resisted by the Government on the ground of fraud, and it seems to me the facts as revealed by the report show that fraud very plainly existed. The facts are simply as follows, as closely as I can get them from the committee report:

This veteran dropped his insurance shortly after the war. In 1927 he applied for a reinstatement of the policy, and, as you know, in order to obtain reinstatement of a policy you must show your health is as good as it was at the time the policy lapsed. In his application the veteran was required to answer certain questions. Let me read them to you, with his answers:

Have you contracted any disease or suffered an injury since the lapse of this insurance?—Answer. No.

Have you consulted a physician in regard to your health since the lapse of this insurance?—Answer. No; except for insurance, and rated first class.

The veteran also answered in the negative to each of the following questions:

Have you ever been treated for any disease of the brain or nerves, throat or lungs, heart or blood vessels, stomach or liver, intestines, kidney or bladder genitourinary organs, skin, glands, ear or eye, bones?

Shortly after the policy was reinstated the veteran contracted tuberculosis, and somebody advised him it would be a simple matter to obtain service-connected disability compensation from the Veterans' Bureau.

In trying to sustain his claim for compensation it was necessary for him to prove that his tuberculosis began prior to 1925 in order to take advantage of the service-connected presumption. In his application, trying to date his tuberculosis back to make it a service-connected matter, he made certain statements. Let us see what those statements were:

On June 31, 1929, the veteran filed an application for compensation on Form 526, giving as his disability tuberculosis. In this form he stated that he had been treated by Dr. William Hibbitts for malaria, bronchitis, and tuberculosis since 1924—

Mind you, his policy was reinstated in 1927—

by Dr. T. L. Kittrell for bronchitis in 1927 and 1928, and by Dr. McBride for skin disease from 1921 to 1924.

There could not possibly be a more flagrant case of fraud and deception on the part of any veteran asking for the reinstatement of a policy. A case of this kind would be thrown out of court if between private litigants before it got to the jury. There is no case here at all. To obtain insurance he claimed he was well; to get compensation he said he was sick at the same time.

I feel that the Federal Government is entitled at least to the same protection given a private company. As a matter of fact, this veteran did go into court, the case was tried, and the veteran was defeated. I think the House of Representatives owes the same duty to an agency of the Government that the court and jury performed in district court.

Mr. PATMAN. Mr. Speaker, I rise in opposition to the motion.

Mr. Speaker, this case of Mr. McLaurine involves the payment of a $5,000 insurance policy.

Occasionally, you will come across a case where you can only get justice by a special act, and I was convinced that this was such a case.

This man in 1927 applied for reinstatement of his insurance. In 1926 the law was extended 1 more year giving him 1 more year in which to apply. He took that 1 year. He was examined by a doctor acceptable to the Veterans' Administration. The doctor examined him and for years his premiums were accepted every month, and private insurance companies at the same time accepted him as a first-class risk; no question was brought up about it.

Later on, however, he was confined in a veterans' hospital at Legion, Tex., and one of the enthusiastic ex-service men tried to convince this man that the thing for him to do was to get service-connected disability and get his disability shown as prior to January 1, 1925, as my colleague suggested a few minutes ago, and, of course, that sounded mighty good to this man. "Yes; you will get service-connected disability," he was told.

Then the Veterans' Administration for a period of several years accepted testimony on that case. He was trying to convince them, of course, and all these ex-service officers were helping him, but the Veterans' Administration held against him on it and said he was not disabled in that way or at the time he said, and further stated, in effect, "Although we are turning you down on your compensation, we have looked into your insurance and we are going to cancel that on you," using the testimony in the compensation case to cancel his insurance.

So after a lapse of several months and several years this insurance was canceled.

Now, remember that private insurance companies had accepted this risk at the same time for the same purpose and they have been paying this man every month. He had two policies in two different companies and they have never raised any question whatsoever about it.

So this is just a question of dealing with this man in the same way and in the same manner that private insurance companies are dealing with him.

Mr. HANCOCK of New York. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I will be glad to yield to the gentleman from New York.

Mr. HANCOCK of New York. Did not the insurance policy of the private company contain a clause making the policy incontestable after 1 year? That is the usual provision.

Mr. PATMAN. That question was not raised.

Mr. HANCOCK of New York. Does the gentleman know when the policies in the private companies were acquired?

Mr. PATMAN. They were acquired about the same time, but they were small policies, and in the case of one of the companies, the Equitable, the agent showed him a $5,000 additional policy and tried to induce him to take it. He said, "Here, it is a good policy." Mr. McLaurine kept it 2 or 3 days, and then said he was not able to take it and turned it back, so there was no intent to defraud anybody, because he turned down a large policy covering the same risk. It shows good faith. He went into it in good faith, and paid his premiums in good faith. Nobody questioned it, except the Government, when he brought up the matter of compensation. The gentleman from New York [Mr. HANCOCK] hit the nail on the head when he said he filed an application for compensation. That is when all of this trouble started.

Mr. HANCOCK of New York. In that application he stated he had been almost continuously under medical care since 1921.

Mr. PATMAN. The Veterans' Administration found that not to be substantially true. There is where it is all wrong. They proved it was not substantially true and here use it as evidence to cancel the insurance.

Mr. HANCOCK of New York. They did not find tuberculosis existed prior to 1925. The man falsified when he said he had not had doctors' care.

Mr. PATMAN. There is where the gentleman did not tell the whole truth. He was asked whether he had been seen by a doctor within a certain length of time, and if so, for what ailment, and he said "no."

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

Mr. PATMAN. Mr. Speaker, I ask unanimous consent to proceed for 2 minutes more.

The SPEAKER. Without objection, the gentleman will proceed for 2 minutes more.

Mr. PATMAN. Really, in fact, he did not tell the truth. He had gone to the doctor about his eyes, and was treated for some minor matter like that, but was not treated for anything of importance. He answered the question like any other person would have answered it under similar and like circumstances.

Mr. HALLECK. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HALLECK. It is my understanding that under the rule under which we are operating no additional time should be asked by any gentleman.

The SPEAKER. The gentleman from Indiana is correct.

Mr. PATMAN. That is true; I had forgotten that. I ask unanimous consent to extend my remarks in the RECORD and to include statements by Mr. McLaurine and by the attorney handling this matter for him. Mr. McLaurine is all right. I have known him for years. He is entitled to this relief, and I urge you to give it to him.

The SPEAKER. Is there objection?

There was no objection.

The matter referred to is as follows:

Re H. R. 5006, Seventy-fifth Congress. A bill for the relief of DeWitt F. McLaurine.

TEXARKANA, ARK., *June 19, 1937.*

HON. WRIGHT PATMAN,
House of Representatives, Washington, D. C.

DEAR MR. PATMAN: Mr. McLaurine has asked that I write you with reference to the above bill. I was one of the attorneys who represented Mr. McLaurine in the suit which he brought against the Veterans' Administration in an attempt to collect on his Government insurance.

The facts, as I understand them, are these:

Mr. McLaurine had war-risk insurance while in the service. He allowed it to lapse. In 1926 he prepared an application to reinstate this insurance in the amount of $10,000, and was examined by a doctor and successfully passed the examination. Before he filed his application, Congress extended the time for one year within which such insurance might be reinstated, and Mr. McLaurine did not, in 1926, file his application. On December 13, 1932, I sent, for Mr. McLaurine, to the Veterans' Administration, this application, with the medical examination thereon together with an affidavit or letter from the doctor who made the examination, all showing that in June 1926 McLaurine was examined and was found to be in good health.

I also found that, in January 1927, Mr. McLaurine applied for, was examined for, and received a life insurance policy with disability benefits from the Guardian Life Insurance Co. He was examined by a doctor for this insurance and found to be in good health.

Then, in June 1927 he applied for a reinstatement of $5,000 of his Government insurance, and was again examined and was passed as being in good health and the Government issued the policy to him.

I also found that in September 1928, Mr. McLaurine applied to the Equitable Life Assurance Society for a life-insurance policy with disability benefits in the amount of $5,000. He was examined for this insurance and passed the examination. The policy was delivered to him and at the same time the agent secured a similar policy for an additional $5,000 of insurance, for which McLaurine had not applied, and endeavored to get him to accept this additional $5,000. As you know, the Equitable is one of the most conservative of the life-insurance companies. Mr. McLaurine kept this policy for some days and finally decided that he could not afford to pay for it and returned it to the agent of the Equitable and same was canceled.

Thereafter in December 1928, Mr. McLaurine was not feeling well and went to his personal physician, Dr. William Hibbetts, of this city, who is now the chief surgeon for the St. Louis Southwestern Railway Co., and was thoroughly examined by him. Dr. Hibbetts could find nothing wrong with him and suggested that Mr. McLaurine have his teeth X-rayed. This was done and no trouble was found with his teeth. Dr. Hibbetts then suggested that he have his chest X-rayed. This was done, and upon examination of the X-ray photograph it was found that Mr. McLaurine had tuberculosis.

Mr. McLaurine went to the Veterans' Hospital, at Legion, Tex., shortly thereafter.

At that time and for some years prior thereto I had been assistant general attorney of the Louisiana & Arkansas Railroad, whose general office was here in Texarkana. Mr. A. L. Burford was the general attorney. Mr. McLaurine was then, and had been for some time, chief clerk in the auditor's office, a responsible position which required lots of detail work. Mr. McLaurine was closely and constantly associated with Mr. Burford and me for some years, and we never suspected that anything was wrong with him.

Both of the commercial life-insurance companies above referred to have been paying Mr. McLaurine disability benefits under the above-described policies since March 1929, and neither of them has raised or suggested any suspicion of fraud in connection with these policies.

After Mr. McLaurine went to the veterans' hospital at Legion, Tex., somebody stirred him up to try to get compensation. As you know, the law provided at that time that if a veteran could show that he had tuberculosis prior to January 1, 1925, it would be conclusively presumed that his disability was service connected and he would be entitled to compensation. You know what veterans' hospitals were at that time and are now like, and you are familiar with the activities of veterans' organizations and know what universal and vigorous efforts are made to get compensation for veterans who have anything at all the matter with them.

In connection with his attempt to get compensation, Mr. McLaurine raked up everything that had happened to him from the time he was discharged from the Army down to date, and, I presume, as usual, tried to get statements or affidavits from everybody who had heard him cough or ever seen him blow his nose. In connection with his attempts to get compensation I understand that he got into some first-class rows with some of the boards and committees of the Veterans' Administration who passed on his application, and he is convinced that his present troubles are due in large part to the animosity and ill will of the representatives of the Veterans' Administration with whom he had these quarrels.

At any rate, the Veterans' Administration eventually ruled that all the evidence that Mr. McLaurine had submitted did not show any proof that he had anything wrong with him prior to the fall of 1928.

Thereafter the Veterans' Administration turned around and used this same evidence, which it had officially ruled was not sufficient to show that he had anything at all the matter with him prior to the fall of 1928, as the basis for a finding that in June 1927 he was suffering from tuberculosis and had practiced fraud on the Government in getting his insurance reinstated.

In connection with his application for compensation Mr. McLaurine submitted the name of Dr. W. P. Miller, of Kansas City, Mo., as being one of the physicians who had treated him after his

discharge from the Army and prior to January 1, 1925. The Administration wrote to Mr. McLaurine that they had interviewed Dr. Miller. They examined his files and could find nothing but card indexes simply indicating that he had seen Mr. McLaurine and that there was no evidence of any diagnosis nor of what Dr. Miller had found was the matter. At the trial here in the United States district court the Administration brought Dr. Miller down as a witness from Kansas City and put him on the stand to testify to the effect that he had treated Mr. McLaurine for lung trouble. The Administration is in the position of having ruled, on the claim for compensation, that Dr. Miller's evidence was not sufficient to raise a suspicion that anything was the matter with McLaurine, and it then used the same evidence as the basis for finding that McLaurine practiced fraud on the Government in reinstating his insurance.

While Mr. McLaurine was in the veterans' hospital he took up with Mr. Burford and me the question of bringing suit on his insurance policy which the Administration had canceled. Neither of us handle this kind of business, but because of our close association with Mr. McLaurine, and at his insistence, we undertook this case for him.

Our view of the law was, and we think it was fully supported by the reported cases, that where a man answers an application for insurance to the effect that he has not been treated by a doctor within a certain length of time, and as a matter of fact he has occasionally visited a physician and been treated for minor ailments, which both he and the physician regarded as being of no consequence whatever, then that the answer to the question on the application does not constitute fraud. We understood, as a matter of fact, that the only thing Dr. Miller had ever treated McLaurine for was a little skin trouble, or eczema, on one hand, and he probably prescribed for a slight cold on one or two occasions. When McLaurine lived in Kansas City he was employed by the Kansas City Railroad, and Dr. Miller was the company doctor. In connection with the application for compensation, McLaurine had some of his friends go through the railroad records and the doctor's records and list every time that he had seen Dr. Miller or any of the company doctors during the 4 or 5 years that he worked for the railroad in Kansas City. Among other things, McLaurine had had his eyes examined and had had glasses prescribed by one of the company doctors. At one of the hearings in connection with his application for compensation McLaurine listed all of these interviews with the company doctors. At the trial of the case on the insurance policy the Government produced a transcript of this testimony and asked McLaurine if he had not been treated by a physician on all of these occasions. McLaurine then attempted to state what the true facts were. As we understand it, it was on the basis of this testimony that Judge Randolph Bryant held that fraud had been practiced on the Government when he answered the question on the application for reinstating his insurance to the effect that he had not been treated by a physician.

Mr. Burford and I did advise Mr. McLaurine not to appeal from Judge Bryant's decision. This advice was based on a combination of the following factors:

1. An appeal in the Federal courts is a fairly expensive process.

2. Mr. McLaurine informed us that you were going to introduce a bill in Congress for his relief.

3. The question of whether or not Judge Bryant's decision was technically correct was not free from doubt.

My own view of the matter, based on the foregoing facts, is that McLaurine did not practice any fraud on the Government. As I understand the purpose of the question on all insurance applications, including the Government application, as to whether or not the applicant has been treated by a physician, is to give the insurer an opportunity to interview the physicians to find out if there is anything the matter with the applicant, which his physical examination at the time of the application did not reveal. In connection with the compensation claim, the Veterans' Administration did interview all of the doctors who had ever seen McLaurine and did examine their records and after their investigation the Administration officially ruled, and so informed Mr. McLaurine, that no evidence could be found which would raise a suspicion that he had anything the matter with him prior to the fall of 1928. We think that McLaurine was sincere in answering the questions as he did. He had consulted physicians but it was about matters which he and the physician both regarded as no consequence whatever. Assuming however, that he should have listed the names of all the doctors whom he had seen professionally, if he had done so it is inconceivable that the Government could have found out anything more in interviewing these doctors in connection with the insurance application than it did from interviewing them in connection with the claim for compensation. The finding of the Administration after the compensation investigation was that nothing could be found to indicate that McLaurine had anything the matter with him prior to the fall of 1928. It follows, therefore, that if a similar investigation had been made at the time of the application for insurance, the policy would have been issued just as it was issued. The Administration has not, therefore, been imposed upon in any form or fashion nor has it been deprived of any rights.

We think that the attitude of the Administration in this matter is a very harsh and technical one. Neither of the commercial insurance companies has indicated a desire to try to take advantage of any such technicality. The Veterans' Administration has ruled in the insurance matter that McLaurine has practiced fraud upon it by not furnishing, in connection with the application for insurance, all of the evidence which he furnished in connection with his claim for compensation, and at the same time has held that the evidence furnished in connection with the claim for compensation is not sufficient to raise a suspicion that McLaurine had anything the matter with him prior to the fall of 1928, over a year after the Government insurance policy was issued.

Yours very truly,

BEN E. CARTER.

MAY 14, 1937.

Hon. ALFRED F. BEITER,
Chairman, Committee on War Claims.

HONORABLE MEMBERS OF THAT COMMITTEE: I have before me a copy of General Hines' letter of April 19, 1937, addressed to you with reference to H. R. 5006, Seventy-fifth Congress, "A bill for the relief of DeWitt F. McLaurine."

First, General Hines would have you gentlemen believe that my policy was obtained through fraudulent statements. This I most emphatically deny, and shall, I believe, clear your views of any such motive.

In law the word "fraud" is defined as "any intentional deception or concealment by which another is legally damaged," and in this case there is nothing that would lead you to any such conclusion.

What are the facts? First, I have attached hereto a signed copy of the brief I sent in some time ago which clearly sets forth very definite facts and is substantiated by letters from officials of the Veterans' Bureau. These letters referred to were furnished you and your committee along with various court decisions on similar cases, which were attached to my original statement.

I do not now, and have never denied, having been to a doctor, but I do deny that any doctor ever treated me for any disease. The few times that I went to doctors was only of a minor nature and resulted in no loss of time by me and no record of my visit kept by the doctors. General Hines did not make any reference to Dr. Miller's court testimony. I believe that is worthy of consideration as to the facts or falseness of same. Dr. McBride only saw me possibly three or four times in connection with an irritation on my hand which lasted only a short time. I believe he called it ring worm. Whatever it was he has no record and never kept any, as he was on the Kansas City Southern Railway Hospital Association staff, and according to Mr. Buechner's testimony on the witness stand, no records are kept of treatment of employees. Dr. Shearer fitted my eyes with glasses as a result of weakness due to working under artificial lights in a large office in Kansas City. He, Dr. Shearer, dilated my eyes; as a result I was absent from the office for several days, and aside from that I never lost a day from work from March 1, 1919, to December 24, 1928.

General Hines' records will verify that, as they have checked and double-checked every record available.

I came to Texarkana, Tex., in May 1924 to accept a position with the Louisiana & Arkansas Railway Co. as chief clerk, a responsible and fairly well paid position, and I secured this position through the recommendation of Mr. W. G. Buechner, auditor of the Kansas City Southern Railway Co., of Kansas City, Mo., and Mr. Calhoun, assistant to the president of the same road.

In June 1926, I filled in application for reinstatement for my $10,000 Government insurance and was examined by Dr. William Hibbitts and rated as first class. I did not send this application in for the reason that the time for reinstatement was extended to July 1, 1927, and I did not have at that time the amount necessary to secure a reinstatement, of the full $10,000.

In January 1927, I took out a $2,000 policy with the Guardian Life Insurance Co. and was examined by Dr. William Hibbitts, the same doctor who examined me in June 1926; and on June 21, 1927, Dr. Hibbitts again examined me for the reinstatement of $5,000 Government insurance which is the policy in dispute. On each examination Dr. Hibbitts made a thorough examination of my chest and all organs or parts set forth on the examination blanks. The application, or Dr. Hibbitts' examination of me for the $10,000 Government policy, was forwarded to General Hines' office in connection with this case, and you can obtain that record from his office. Dr. Hibbitts was at that time city physician of Texarkana, Tex., and was and is one of the ablest and most reputable of our local physicians.

In September 1928, I applied for $5,000 life insurance with the Equitable Life of New York, and was examined in that month by Dr. T. F. Kittrell, who is rated by many people as the leading physician of this city and who is examiner for the best life-insurance companies who write insurance in Texarkana. Dr. Kittrell examined me thoroughly and found nothing wrong; recommended me as a first-class risk. The Equitable Insurance Co. sent an extra $5,000 policy, hoping that they could induce me to take same, and stated they would issue to me all the insurance I wanted within my ability to pay, on the examination made by Dr. Kittrell. After keeping the extra $5,000 policy for several weeks, I returned it to the local agent for him to return, as I was unable to pay the premium on the same at that time. Now, this was less than 90 days before I found out I had tuberculosis. The Equitable Life did not cancel their policy and they had 2 years in which to contest same if they so desired.

You have in your file a copy of the statement made by Dr. William Hibbitts and Dr. Kittrell, an affidavit made by me. The originals of these are in General Hines' office.

On page 2 of General Hines' letter of April 19, he makes reference to certain questions in the application for insurance and my answers. First, "Have you contracted any disease or suffered any injury since the lapse of this insurance?" Answer. "No." Certainly that answer is true and is borne out by the doctors' statements in your file.

Second. "Have you consulted a physician in regard to your health since the lapse of this insurance?" Answer. "No; except for insurance and rated first class."

And certainly that answer was correct, for those few times I went to the company doctors were for minor ailments with no loss of time or treatment prescribed. Dr. Miller saw me possibly two or three times, and gave me something for a slight cold. Dr. McBride saw me possibly three or four times, and gave me a salve for ringworm on my hand that readily healed, and Dr. Shearer fitted my eyes with glasses due to weakness caused by working under artificial lights in a large office. He dilated my eyes, and as a result of the dilation I was out of the office for several days, and with that exception I was on the job from 8 to 12 hours a day from March 1, 1919, to December 24, 1928, when I resigned my position—having just found out that I had tuberculosis—to seek medical treatment in the Veterans' Hospital at Legion, Tex.

General Hines states, among other things, that in my claim for compensation I stated that I had been treated by Dr. Hibbitts for malaria, bronchitis, and tuberculosis since 1924; by Dr. T. F. Kittrell for bronchitis in 1927 and 1928; and Dr. McBride for skin disease from 1921 to 1924. As to what was in my application for compensation I do not know, as P. T. Lundquist, then contact man out of the San Antonio regional office, filled out same and I signed it. At that time, only a few days after arriving at the veterans' hospital and making claim, I was very much depressed as to my physical condition, and answers were written in by contact man. In other words, I have been very much ill-advised by Bureau officials in obtaining statements.

Furthermore, the question involved is not one for me to diagnose, or the Bureau, but by competent medical authority. Mr. PATMAN knows Dr. Hibbitts and Dr. Kittrell and their standing in this community, and I say to you gentlemen they would not have recommended me as a first-class risk for insurance on each examination if either had suspected anything wrong with me.

General Hines did not state to you that the court did not permit me to submit all evidence in connection with this case, or grant a continuance. It appears that General Hines is placing the responsibility of diagnosing my case on me and not the doctors, as no reference is made by him to their finding.

On page 3 of General Hines' letter, and last paragraph, he puts considerable emphasis upon the fact that I did not appeal this case. That is easily explained and verified by Hon. WRIGHT PATMAN. Shortly after the trial in May 1935, and while Congress was in session, I talked with Mr. PATMAN here in Texarkana, and after some conversation and discussion of the suit on insurance, it was agreed that Mr. PATMAN would introduce a bill in Congress for my relief. I then talked with Mr. A. L. Burford, one of the attorneys in this case, and he advised me not to appeal the case if Mr. PATMAN was going to handle it in the manner I outlined to him. Shortly after Mr. PATMAN returned to Washington he wrote me it would require some time to prepare a bill and assemble the evidence, and that same could not be handled at that session of Congress. Hence, we have it now. I did not concede to any fraud then, and I do not now, for there was not any.

The Constitution, as I understand it, guarantees every citizen a fair and impartial trial by jury. This I did not have. Only a one-man court and written with prejudice.

General Hines says he cannot recommend favorable action on H. R. 5006, and that for you gentlemen to permit me to recover benefits would be contrary to public policy and encourage fraud upon the Government and permit me to profit as a result of misrepresentation.

I believe the evidence submitted by my doctors who examined me for insurance in the years 1926, 1927, and 1928 clearly shows I have enjoyed good health and sets aside all statements made by Dr. Miller or General Hines.

Gentlemen, there was no fraud. I am not seeking sympathy, bounty, or anything as a result of my disability, except justice, and that is one of the cardinal virtues of our Nation. If you should want any references in any form, I can submit all you want from the leading citizens of Texarkana.

I trust I have made myself clear, and into your hands I submit the final decision. It is written, "Truth crushed to earth shall rise again." And the truth is what I have furnished you.

Respectfully submitted.

DEWITT F. MCLAURINE.

The SPEAKER. The question is on the amendment offered by the gentleman from New York.

The question was taken; and on a division (demanded by Mr. HANCOCK of New York) there were—ayes 8, noes 42.

So the amendment was rejected.

The SPEAKER. The Clerk will read the next title.

The Clerk read as follows:

Title V—(S. 51. For the relief of Fred G. Clark Co.)

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Fred G. Clark Co. the sum of $7,586.61, being the amount agreed upon in accordance with the decision of the Board of Contract Adjustment, War Department, in full settlement for losses suffered by reason of forced compliance by said company with orders of the War Industries Board preventing said company from disposing of its stock of wool grease during the late war with Germany: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Title VI—(S. 1242. For the relief of Stanley A. Jerman, receiver for A. J. Peters Co., Inc.)

That the claim of Stanley A. Jerman, receiver for A. J. Peters Co., Inc., for forage delivered by the said A. J. Peters Co. to the Quartermaster Corps, War Department, during the late World War, and the years 1917 to 1919, inclusive, and used by the War Department, for which no payment whatever has ever been made under the following contracts and orders: P. O. 20847, P. O. 21212 to P. O. 21217, both inclusive, P. O. 21219, P. O. 21319, P. O. 21320, P. O. 21469, P. O. 21494, 51, contract dated March 31, 1917, P. O. 2350 to P. O. 2352, both inclusive, P. O. 20260, P. O. 20836 to P. O. 20838, both inclusive, be, and the same is hereby, referred to the United States Court of Claims with jurisdiction to hear and determine the same to judgment: *Provided*, That the petition is filed within 6 months from the date of this act.

Mr. COSTELLO. Mr. Speaker, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. COSTELLO: Page 6, strike out all of title VI.

Mr. COSTELLO. Mr. Speaker, this title permits the A. J. Peters Co. to sue the Government to recover over $31,000, the amount due them for hay that was furnished to the Army during the period of the World War. Frequently during the time that this company was contracting with the Government to supply hay, it was found that the grade of hay and the quantity were not according to the specifications. In each instance in which the matter was brought in question, the A. J. Peters Co. did not hesitate to accept the findings of the Government and make a compromise settlement accordingly. As a result of frequent transactions along this line, the Department of Justice investigated. The Department seized the books of the company and a suit was brought against them on criminal grounds. However, it was impossible for the Government to win a conviction and the suits were dismissed. Then the Government made an investigation as to the possibility of bringing civil action to recover losses sustained by the Government. However, after an accounting was made, it was found there was no money due the Government, principally because of the fact that the $31,900 had been withheld from the A. J. Peters Co. In view of the fact that this company knew it was attempting to defraud the Government, and because of the fact it was shown that their inspection reports and their grade certificates were being substituted and fraudulent reports were being submitted and settlement attempted on these fraudulent reports, it seems to me that this company, or at least the receiver for the company, comes into court with unclean hands. If the transactions had been honest and meritorious, then this company would be entitled to recover the full value for the hay delivered to the Government, but in this particular instance, in almost every shipment they made to the Government, either the hay was not of the required grade or the quantity was not as specified in the shipping labels. For that reason it seems to me this company, because of the repeated frauds it attempted to work on the Government, is not entitled to come here before Congress and seek relief, particularly so in view of the fact that this claim arose back in 1919 or 1920. The claim is almost 20 years old and has been before Congress on numerous occasions, but the Congress has never seen fit previously to approve of the claim. I feel quite sure that the Congress in this instance will accept my amendment and reject the claim.

Mr. THOMASON of Texas. Mr. Speaker, I do not know A. J. Peters & Co.; I do not know where they live; I do not know anything about them. I, therefore, hold no brief for them and have no personal interest in them. But I do know Heid Bros.,

who live in my city and who furnished a good deal of this hay to A. J. Peters & Co., who bought it under a subcontract.

It is true, as the gentleman from California stated, that criminal charges were preferred against A. J. Peters & Co. It is one thing to prefer charges but it is quite another to prove them. A. J. Peters & Co. were acquitted of the charges because same were dismissed. Thereafter the Government sought to file civil suit for the amount of the shortage which they claimed as a result in the change of weights and grades; but they found they did not have a scintilla of evidence and also dismissed the civil charges. The Government did not even file civil suit. It is also true that claim has been pending here for a great many years. The truth is that ever since the Seventy-first Congress, to my personal knowledge, the Committee on War Claims has, I think, unanimously made a favorable report on this claim; but due to some objection, delay, or technicality, which seems so common on these claims, the bill has never yet passed.

This bill does not appropriate one single cent. It does say, in justice to honest, patriotic American citizens, that since they were acquitted of any criminal charge, and since the Government after it made its own audit found they did not owe the Government one cent, they should be permitted to go into the Court of Claims and have a fair hearing, as well as to remove the stain that was placed upon them by reason of the indictment. That is only fair and right.

Mr. CHURCH. And Heid Bros. could not set off against the Government in a civil suit.

Mr. THOMASON of Texas. And Heid Bros., so far as the record shows, were as innocent of any wrongdoing as my friend from Illinois.

Mr. CHURCH. And they have no set-off against the Government.

Mr. THOMASON of Texas. No set-off. Peters & Co. were acquitted of all charges. I would like to read just one sentence from the report of the Secretary of War:

> Upon failure of the United States attorney to get a conviction in any of the cases tried, the criminal action against the members of the firm was dismissed on recommendation of the Attorney General and an investigation was then made to determine the advisability of bringing civil action against the company.

Remember this was after the criminal charges had been dismissed. The Secretary of War further said:

> The contemplated civil action was abandoned when it was learned that an audit of the account indicated that there was no amount due to the United States.

They were exonerated of the criminal charges, no civil suit was filed, and the only thing they ask now is to have their day in court. Every man is entitled to that in this country. They lost their hay or a part of its value. To me it is nothing in the world but fair, just, and equitable that these people should have their chance to prove their claim. The Government had its day in court. It reflected upon the integrity and standing of these men in their community by indicting them. They were acquitted of the charge and an audit of their books show they owed the Government no money. We should be fair to Peters & Co. Frankly my interest is in Heid Bros. who were innocent victims and have never been paid full value for the hay they subcontracted to Peters. Heid Bros. are among the finest citizens and merchants of my city. They are also my friends and I plead for justice for them.

Mr. Speaker, I hope that the amendment offered by the gentleman from California will be promptly voted down.

[Here the gavel fell.]

The SPEAKER. The question is on the amendment offered by the gentleman from California.

The question was taken; and on a division (demanded by Mr. COSTELLO) there were—ayes 11, noes 33.

Mr. COSTELLO. Mr. Speaker, I object to the vote on the ground there is not a quorum present.

The SPEAKER. Evidently there is not a quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 83, nays 216, not voting 128, as follows:

[Roll No. 77]

YEAS—83

Allen, Ill.	Dowell	Lambeth	Robsion, Ky.
Andrews	Doxey	Lord	Rockefeller
Bacon	Elliott	Luce	Rogers, Mass.
Barton	Engel	Luckey, Nebr.	Seger
Brewster	Englebright	McLean	Shafer, Mich.
Cannon, Mo.	Ferguson	Mapes	Smith, Maine
Carlson	Fletcher	Martin, Mass.	Stefan
Carter	Ford, Miss.	May	Taber
Case, S. Dak.	Gamble, N. Y.	Michener	Taylor, Tenn.
Clason	Gilchrist	Mitchell, Tenn.	Terry
Cluett	Gray, Ind.	Mott	Thom
Cochran	Guyer	Oliver	Thomas, N. J.
Coffee, Nebr.	Gwynne	O'Neal, Ky.	Tinkham
Cole, N. Y.	Halleck	O'Neill, N. J.	Towey
Colmer	Hancock, N. Y.	Pettengill	Transue
Cooper	Holmes	Plumley	White, Ohio
Costello	Hope	Polk	Wigglesworth
Crawford	Hull	Powers	Wolcott
Crowther	Jenkins, Ohio	Reece, Tenn.	Wolverton
Dirksen	Knutson	Reed, N. Y.	Woodruff
Dondero	Lambertson	Rees, Kans.	

NAYS—216

Aleshire	Dunn	Keogh	Patterson
Allen, Del.	Edmiston	Kitchens	Patton
Allen, La.	Eicher	Kocialkowski	Pearson
Amlie	Evans	Kramer	Peterson, Fla.
Anderson, Mo.	Farley	Kvale	Peterson, Ga.
Andresen, Minn.	Fernandez	Lanham	Pfeifer
Arends	Fitzgerald	Lanzetta	Poage
Arnold	Flaherty	Larrabee	Rabaut
Ashbrook	Fleger	Leavy	Ramsay
Atkinson	Forand	Lesinski	Ramspeck
Barden	Ford, Calif.	Lewis, Colo.	Randolph
Barry	Frey, Pa.	Lewis, Md.	Rayburn
Beiter	Fries, Ill.	Lucas	Reed, Ill.
Bernard	Fuller	Ludlow	Rigney
Biermann	Fulmer	Luecke, Mich.	Robertson
Bigelow	Gambrill, Md.	McAndrews	Romjue
Bland	Garrett	McCormack	Sadowski
Bloom	Gasque	McFarlane	Sanders
Boehne	Gehrmann	McGehee	Satterfield
Boileau	Goldsborough	McGrath	Sauthoff
Boren	Green	McKeough	Schaefer, Ill.
Boyer	Greenwood	McLaughlin	Schuetz
Boykin	Greever	McSweeney	Schulte
Brooks	Gregory	Maas	Scott
Brown	Griffith	Magnuson	Scrugham
Buckler, Minn.	Hamilton	Mahon, S. C.	Shanley
Burdick	Harlan	Mahon, Tex.	Sirovich
Caldwell	Harrington	Martin, Colo.	Smith, Conn.
Cartwright	Hart	Mason	Smith, Va.
Casey, Mass.	Havenner	Massingale	Smith, Wash.
Celler	Healey	Maverick	Smith, W. Va.
Champion	Hendricks	Mead	Somers, N. Y.
Chandler	Hill	Meeks	South
Church	Hobbs	Merritt	Sparkman
Citron	Honeyman	Mills	Spence
Clark, N. C.	Hook	Mitchell, Ill.	Starnes
Coffee, Wash.	Houston	Mouton	Sutphin
Collins	Hunter	Murdock, Ariz.	Tarver
Connery	Imhoff	Murdock, Utah	Teigan
Cooley	Izac	Nelson	Thomas, Tex.
Cox	Jacobsen	Nichols	Thomason, Tex.
Cravens	Jarman	Norton	Thompson, Ill.
Creal	Jenckes, Ind.	O'Brien, Ill.	Tolan
Crosser	Johnson, Luther A.	O'Connell, Mont.	Turner
Crowe	Johnson, Lyndon	O'Connell, R. I.	Umstead
Cummings	Johnson, Minn.	O'Connor, N. Y.	Vincent, Ky.
Dempsey	Johnson, Okla.	O'Malley	Vinson, Ga.
Dickstein	Johnson, W. Va.	O'Toole	Voorhis
Dies	Jones	Owen	Wallgren
Dingell	Kee	Pace	Warren
Disney	Keller	Palmisano	Whittington
Dixon	Kelly, N. Y.	Parsons	Williams
Dockweiler	Kennedy, Md.	Patman	Withrow
Driver	Kennedy, N. Y.	Patrick	Zimmerman

NOT VOTING—128

Allen, Pa.	Crosby	Eckert	Hildebrandt
Bates	Culkin	Faddis	Hoffman
Beam	Cullen	Fish	Jarrett
Bell	Curley	Fitzpatrick	Jenks, N. H.
Binderup	Daly	Flannagan	Kelly, Ill.
Boland, Pa.	Deen	Flannery	Kerr
Boylan, N. Y.	Delaney	Gavagan	Kinzer
Bradley	DeMuth	Gearhart	Kirwan
Buck	DeRouen	Gifford	Kleberg
Buckley, N. Y.	Ditter	Gildea	Kniffin
Bulwinkle	Dorsey	Gingery	Kopplemann
Burch	Doughton	Gray, Pa.	Lamneck
Byrne	Douglas	Griswold	Lea
Cannon, Wis.	Drew, Pa.	Haines	Lemke
Chapman	Drewry, Va.	Hancock, N. C.	Long
Clark, Idaho	Duncan	Harter	McClellan
Claypool	Eaton	Hartley	McGranery
Cole, Md.	Eberharter	Hennings	McGroarty

McMillan	Reilly	Simpson	Treadway
McReynolds	Rich	Smith, Okla.	Wadsworth
Maloney	Richards	Snell	Walter
Mansfield	Robinson, Utah	Snyder, Pa.	Wearin
Moser, Pa.	Rogers, Okla.	Stack	Weaver
Mosier, Ohio	Rutherford	Steagall	Welch
O'Brien, Mich.	Ryan	Sullivan	Wene
O'Connor, Mont.	Sabath	Sumners, Tex.	West
O'Day	Sacks	Sweeney	Whelchel
O'Leary	Schneider, Wis.	Swope	White, Idaho
Phillips	Secrest	Taylor, Colo.	Wilcox
Pierce	Shannon	Taylor, S. C.	Wolfenden
Quinn	Sheppard	Thurston	Wood
Rankin	Short	Tobey	Woodrum

So the amendment was rejected.

The Clerk announced the following pairs:

Until further notice:

Mr. Woodrum with Mr. Snell.
Mr. Doughton with Mr. Treadway.
Mr. Boland of Pennsylvania with Mr. Ditter.
Mr. Cullen with Mr. Wadsworth.
Mr. Drewry of Virginia with Mr. Gifford.
Mr. Rankin with Mr. Eaton.
Mr. Gavagan with Mr. Kinzer.
Mr. Mansfield with Mr. Tobey.
Mr. McMillan with Mr. Wolfenden.
Mr. Taylor of Colorado with Mr. Hartley.
Mr. Bulwinkle with Mr. Crawford.
Mr. Sumners of Texas with Mr. Jarrett.
Mr. Wilcox with Mr. Rutherford.
Mr. Kerr with Mr. Short.
Mr. Sabath with Mr. Bates.
Mr. McReynolds with Mr. Fish.
Mr. Kleberg with Mr. Gearhart.
Mr. Burch with Mr. Douglas.
Mr. Griswold with Mr. Hoffman.
Mr. DeRouen with Mr. Culkin.
Mr. Maloney with Mr. Jenks of New Hampshire.
Mr. Kelly of Illinois with Mr. Rich.
Mr. Lamneck with Mr. Welch.
Mr. West with Mr. Simpson.
Mr. Weaver with Mr. Lemke.
Mr. Flanagan with Mr. Schneider of Wisconsin.
Mr. Stack with Mr. Mosier of Ohio.
Mr. Hennings with Mr. Cole of Maryland.
Mr. O'Leary with Mr. Deen.
Mr. Secrest with Mr. Swope.
Mr. Eberharter with Mr. Chapman.
Mr. Buck with Mr. Daly.
Mr. Sullivan with Mr. Harter.
Mr. Pierce with Mr. Faddis.
Mr. Bradley with Mr. Reilly.
Mr. Sheppard with Mr. Whelchel.
Mr. Beam with Mr. Robinson of Utah.
Mr. Walter with Mr. Claypool.
Mr. Binderup with Mr. O'Brien of Michigan.
Mr. Fitzpatrick with Mr. Wearin.
Mr. Dorsey with Mr. Kniffin.
Mrs. O'Day with Mr. Cannon of Wisconsin.
Mr. Allen of Pennsylvania with Mr. Ryan.
Mr. Bell with Mr. Haines.
Mr. Snyder of Pennsylvania with Mr. Curley.
Mr. McClellan with Mr. Wene.
Mr Eckert with Mr. Sweeney.
Mr. Clark of Idaho with Mr. Moser of Pennsylvania.
Mr. Flannery with Mr. Phillips.
Mr. Gray of Pennsylvania with Mr. Boylan of New York.
Mr. Buckley of New York with Mr. Taylor of South Carolina.
Mr Steagall with Mr. Drew of Pennsylvania.
Mr. Smith of Oklahoma with Mr. Gildea.
Mr. Byrne with Mr. Sacks.
Mr. Crosby with Mr. Gingery.
Mr. Delaney with Mr. Quinn.
Mr. Richards with Mr. DeMuth.
Mr. Hancock of North Carolina with Mr. Shannon.
Mr. Hildebrandt with Mr. Kirwan.
Mr. Long with Mr. Duncan.
Mr. Lea with Mr. McGranery.

Mr. CRAVENS, Mr. CHANDLER, and Mr. MEAD changed their vote from "yea" to "nay."

Mr. ANDREWS changed his vote from "nay" to "yea."

The doors were opened.

The result of the vote was announced as above recorded.

The Clerk read as follows:

Title VII—(H. R. 6784. To confer jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of the Velie Motors Corporation)

That jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render judgment, notwithstanding the lapse of time or any statute of limitations, upon the claim of the Velie Motors Corporation for reimbursement for net losses sustained by such corporation on account of the additional requirements imposed by the Government with respect to the crating of gun carts manufactured pursuant to a certain war contract (No. CMG-74, dated October 25, 1917) with the Ordnance Department, United States Army, which requirements were not contemplated by such contract.

SEC. 2. Such claim shall be instituted by or on behalf of the Velie Motors Corporation within 1 year after the date of the enactment of this act. Proceedings in any suit before the Court of Claims under this act, and review thereof, and payment of any judgment therein, shall be had as in the case of claims over which such court has jurisdiction under section 145 of the Judicial Code, as amended.

Mr. HANCOCK of New York. Mr. Speaker, I offer an amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. HANCOCK of New York: Strike out title VII.

Mr. HANCOCK of New York. Mr. Speaker, this claim is just another chestnut which arose out of a dispute between the Army and a contractor in 1918 and has been before us ever since. The House is in an exceedingly generous mood today, and I expect it will pass this bill like all the rest. I will not detain you very long but desire to read two or three salient paragraphs from the report which will give you the entire picture.

The Velie Motor Car Co. had a contract with the War Department to make some gun carts and provide suitable crating for those carts. The Velie Co. claims they were required to alter their crating before delivery was made and are asking for additional compensation for the change in the crating.

The paragraph of the contract with reference to this phase of the contract is as follows:

Deliveries of the articles, suitably packed, boxed, and marked according to the instructions of the contracting officer, shall be made to the contracting officer f. o. b. cars at Moline, Ill.

There were a number of contractors who had similar agreements with the Government. None of the others have made claims for additional compensation on the theory that the Government caused any additional cost to them by reason of changing the provisions with reference to the crating of the carts.

The Ordnance Department notified the Velie Motor Co. of its final decision about 1919, and I read from the final decision:

You are not entitled to additional compensation in the sum of $4 per cart, as investigation developed that the crating required for domestic shipment does not differ from the crating required for export shipment.

It is the understanding of this office that the original contract required that you crate the articles for domestic shipment without any extra cost over the unit price. It is understood that there was a slight change in specifications for crating which involved the addition of certain metal straps, but this strapping was not peculiar to crating for overseas shipment but was required on crating for domestic shipment as well. The other corporations had contracts for similar material, and your company should be treated in the same way, as the original bargain was understood to be the same with the three companies.

The Velie Motor Co. had from 1919 to 1924 to go into the Court of Claims to prosecute this claim but declined to do so. Now, 20 years later, we are asked to waive the statute of limitations. If there ever was a case of gross laches, this company is guilty of it.

Mr. Speaker, it seems to me the time has come not only to refuse to pass claims of this kind but to do away with the Committee on War Claims altogether because it has outlived its usefulness. If you can resurrect a claim of this age where the claimant has been guilty of such neglect in prosecuting a claim, you can resurrect Civil War claims, War of 1812 claims, and Revolutionary War claims. We have to stop these claims some time and I think the House should take a stand today to end these antiques that come before us year after year.

[Here the gavel fell.]

Mr. THOMPSON of Illinois. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, this is a bill to confer upon the Court of Claims jurisdiction to hear the claim of the Velie Motors Corporation, of Moline, Ill., arising out of a contract for some gun carts made back in 1917. The original contract provided that these carts should be crated for domestic shipment. After a few hundred of them had been manufactured

and made ready for domestic shipment, the Ordnance Department directed the contractor to crate these carts for overseas shipment and even went so far as to agree upon a price of $4 extra for each cart made ready for overseas shipment.

The gentleman from New York states that the Velie Motors Corporation failed to take advantage of the law and file its claim within the 7 years set down by Congress early in 1920 or in 1921. As a matter of fact, the Velie Motors Corporation was a concern controlled by one family. It became involved in serious financial difficulties, and in 1921, 1922, and 1923 lost control of the business to bankers from Cleveland and Chicago. These bankers, in order to protect the loans, put men in charge of this business who failed to take advantage of the rights of the corporation to file claims. In 1924 and 1925 Mr. Velie had paid off the bankers and discharged his indebtedness. He thereupon assumed full control of his own business. He found he was prevented by law from presenting this claim which at one time had been approved by the War Department.

The only people involved are the stockholders of the Velie Motors Corporation. This is not a bankers' bill. These people are certainly entitled to their day in court. They are entitled to prove whether or not they have this $4 extra per cart coming to them. Therefore, Mr. Speaker, I hope the House will vote down the amendment offered by the gentleman from New York and give the Velie Motors Corporation and its stockholders the opportunity to present their case in the court provided for them, the Court of Claims.

Mr. EICHER. Will the gentleman yield?

Mr. THOMPSON of Illinois. I yield to the gentleman from Iowa.

Mr. EICHER. Is the Velie family still the beneficiaries of this claim?

Mr. THOMPSON of Illinois. Yes. The Velie family are the sole stockholders in this company, or at least own nearly all of the stock.

Mr. EICHER. There are no speculators interested in this bill?

Mr. THOMPSON of Illinois. There are no speculators, bankers, or other creditors involved except the Velie family, and possibly a few former employees.

Mr. BOILEAU. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of Illinois. I yield to the gentleman from Wisconsin.

Mr. BOILEAU. The gentleman referred to some time when the bankers took over the company temporarily.

Mr. THOMPSON of Illinois. I did.

Mr. BOILEAU. Was there any settlement of the claims on a percentage basis, or were the debts paid in their entirety?

Mr. THOMPSON of Illinois. All debts were retired. The bankers had advanced money to carry on these war contracts. They took over the company and managed it until they got their money, and then the Velie family regained control of the company again.

Mr. BOILEAU. Was there any time the creditors of the Velie corporation received less than 100 cents on the dollar on the debts?

Mr. THOMPSON of Illinois. No; not to my knowledge.

Mr. SMITH of Connecticut. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of Illinois. I yield to the gentleman from Connecticut.

Mr. SMITH of Connecticut. Was any attempt made to charge the managers under the bankers with negligence in failing to present this claim?

Mr. THOMPSON of Illinois. That is brought out in the evidence; yes.

Mr. SMITH of Connecticut. Were they pursued?

Mr. THOMPSON of Illinois. No; they were not. The facts are shown in the evidence in the case, but no action was taken against them on the part of the stockholders of the corporation.

Mr. SAUTHOFF. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of Illinois. I yield to the gentleman from Wisconsin.

Mr. SAUTHOFF. Was there a receivership?

Mr. THOMPSON of Illinois. There never was a receivership. The gentleman will recall that many companies were obliged to borrow money from large bankers and had to borrow it under some kind of a stipulation or agreement to the effect that if the indebtedness became due and was not paid the bankers would take over and "run the show" until the indebtedness was retired. That is what happened in this case.

Mr. TERRY. Mr. Speaker, will the gentleman yield?

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

Mr. TERRY. On what date did the bankers take over this company?

Mr. THOMPSON of Illinois. 1921, I believe.

Mr. TERRY. And the Velie people had charge of it from 1918 to 1921?

Mr. THOMPSON of Illinois. The gentleman is correct.

Mr. REES of Kansas. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of Illinois. I yield to the gentleman from Kansas.

Mr. REES of Kansas. How much money does the Velie Co. claim under this measure? What is the total amount of the claim?

Mr. THOMPSON of Illinois. There were about 9,400 crates at $4 apiece. The total is somewhere in the neighborhood of $38,000.

Mr. REES of Kansas. That is in addition to what they have already received?

Mr. THOMPSON of Illinois. This is an item of crating. They have already received payment for the manufacture of the gun carts.

The SPEAKER pro tempore (Mr. RAYBURN). The question is on the amendment offered by the gentleman from New York [Mr. HANCOCK].

The amendment was rejected.

The Clerk read as follows:

Title VIII—(H. R. 3231. For the relief of Capt. Roger H. Young)

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Roger H. Young, late captain, United States Infantry, the sum of $727.55, representing the amount refunded by him on account of the loss of the company funds of Company G, Horsed Battalion, Fifth Ammunition Train, United States Army, which were lost on or about January 24, 1916.

With the following committee amendment:

Page 7, line 21, strike out "$727.55" and insert "$365."

The committee amendment was agreed to.

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

The Clerk read as follows:

Amendment offered by Mr. COSTELLO: On page 7, strike out all of title VIII.

Mr. COSTELLO. Mr. Speaker, this title of the omnibus bill proposes to pay to Roger H. Young, recently a captain of the United States Infantry, the sum of $365. It appears that during the World War Captain Young was given custody of company money in the sum of $727.55. Somehow, while the troops were on maneuvers, this money was lost; at least, the captain does not know how it disappeared. He does not blame anybody for taking the money, and simply believes that during the maneuvers the money was lost by some means. As a result, it being company money, the money was refunded by the captain and the company fund was reimbursed from his own moneys.

The proposal in this bill is to have the Government stand half the loss and have the captain stand the other half of the loss. Other than that there can be no justification for the bill. It is purely a question of whether the Congress wants to make a donation to Captain Young in the sum of $365. There is no claim against the Government. It was not Government money, but merely company funds belonging to

the troops. So far as I can see, there is no real justification for passing this measure.

Moreover, I call to your attention that the transaction occurred back in January of 1919, so this bill goes back to an event that took place approximately 20 years ago. It seems to me, as the gentleman from New York has stated, that it might be well to allow some of these ancient claims to lie buried rather than revive them year after year in the Congress.

Mr. Speaker, I trust the House will sustain my amendment.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California [Mr. COSTELLO].

The question was taken; and on a division (demanded by Mr. BEITER) there were—ayes 29, noes 17.

So the amendment was agreed to.

The Clerk read as follows:

Title IX—(H. R. 4443. For the relief of Meta De Rene McLoskey)

That the Administrator of Veterans' Affairs be, and he is hereby, authorized and directed to pay to Meta De Rene McLoskey, mother of Arthur Lee McLoskey, formerly a member of Company I, Forty-seventh Regiment United States Infantry, who disappeared on May 7, 1918, all such installments of money which she would be entitled to receive as beneficiary of policy T-2024764. The first of such installments shall be paid within 90 days from the date of the enactment of this act and continue during her natural life or until she has received the full amount of said policy.

Mr. HANCOCK of New York. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HANCOCK of New York: Strike out all of title IX.

Mr. HANCOCK of New York. Mr. Speaker, this bill would authorize the payment of a war-risk insurance policy to the mother of a deceased veteran, or rather, of a veteran whose whereabouts are not known. There is an unusual set of circumstances here, and I believe a rather interesting one.

The soldier, Arthur Lee McLoskey, enlisted or was inducted into the service on March 29, 1918. Shortly thereafter he was sent to the camp hospital and came out on May 7. He was assigned to Company I of the Forty-seventh Infantry. On May 10 the Forty-seventh Infantry was ordered overseas, and, according to the official reports, the soldier, young McLoskey, did not accompany the outfit.

The War Department records have no history of him since he was returned to duty from the hospital on May 7, 1918, as a private with Company I, Forty-seventh Infantry. This organization sailed for duty overseas on May 10, 1918, but he did not sail with it, according to the records of the War Department, nor do the records in that Department show that he sailed for duty overseas with any other detachment or organization. There is no record that the soldier served with any Army unit in this country after he was discharged from the camp hospital, nor is he recorded as ever having served as a member of the Expeditionary Forces. His present status in the War Department is that of a deserter since May 7, 1918.

This information is in the committee report on the bill and is all I have on which to base my judgment. It appears that this young soldier made an allotment for war-risk insurance and one premium was paid. Thereafter the boy completely disappeared, as if the earth had opened up and swallowed him.

A few moments ago the proponent of this bill, our good friend from Indiana, showed me three or four letters signed by young men who claim to have been comrades of this soldier in the 47th Infantry, Company I, in the A. E. F. These letters were not written until late in the summer of 1935 when for the first time it was determined to make an effort to collect on this policy, which in itself arouses a little bit of suspicion.

We have no company roster, no sailing list, no hospital record, and nothing official to indicate that McLoskey served after May 7, 1918—only three or four conflicting letters from friends of his who claim he was in France, written 17 years after the war. There is no communication of any commissioned officer or noncommissioned officer, which I think is significant. One of these young men states he believes he left McLoskey at a first-aid dressing station, and has never seen him since. Another thinks he was blown to bits by a shell, and another one thinks he may have been taken a prisoner. As I said, the three stories are not in accord, and in the absence of some official word I doubt very much if we are justified, after a lapse of all these years, in paying this policy.

I want to emphasize this again: There is no official record whatever that this soldier ever left the United States or was ever a member of the A. E. F. or ever rendered any service after his disappearance early in May 1918.

Mr. KITCHENS. Mr. Speaker, will the gentleman yield?

Mr. HANCOCK of New York. I yield.

Mr. KITCHENS. Was any suit filed anywhere in the courts to recover on this policy according to law?

Mr. HANCOCK of New York. So far as I know from reading the record, no attempt was ever made to collect the war-risk insurance until 1935. The gentleman from Indiana will know more about that than I do. I can only judge by what has been submitted to me.

Mr. KITCHENS. If bills of this kind pass the Congress, then they take from the court their jurisdiction in these insurance cases.

Mr. HANCOCK of New York. That is correct, and it is a rather dangerous thing to do without more evidence than we have to go on here.

Mr. MEEKS. Mr. Speaker, will the gentleman yield?

Mr. HANCOCK of New York. I yield.

Mr. MEEKS. What about the rule of presumption of death in such cases?

Mr. HANCOCK of New York. After a lapse of 7 years there is a presumption of death, but in order to recover under an insurance policy that presumption must arise while the policy is still alive. In this case only one premium was paid, which was for the month of April 1918. So the policy lapsed by May 1, plus such extension of time as might be had through grace and through unpaid compensation that may have been owing the soldier.

Mr. MEEKS. So such a presumption does not arise in this case?

Mr. HANCOCK of New York. The presumption would give no benefit, I should say, after June 1918.

Mr. SMITH of Connecticut. Mr. Speaker, will the gentleman yield?

Mr. HANCOCK of New York. I yield.

Mr. SMITH of Connecticut. Were there not some policies with private insurance companies which were paid in this case on that presumption?

Mr. HANCOCK of New York. Not so far as I can find in the record.

Mr. LUDLOW. That is true—the Prudential Insurance Co.

[Here the gavel fell.]

Mr. LUDLOW. Mr. Speaker, I rise in opposition to the amendment.

I hope that my friend the gentleman from New York [Mr. HANCOCK], who performs a very useful service in this House, and whom we all esteem, will not press his opposition to this title.

Knowing intimately as I do all the facts in this case, it seems to me that denial of this claim by the Veterans' Administration constitutes one of the worst miscarriages of justice I have ever known in all of my life, and this is the opinion of the American Legion, which places this case at the very top of all the cases in which it is especially interested.

I have a letter here from Capt. Watson B. Miller, who is the efficient agent, as you know, of the American Legion, who is deeply interested in this case, and who states that in all of his 14 years of experience he has not advocated more than three or four special measures, and this is one of the three or four, and he asks you to pass this legislation based on its merits; and with the permission of the House I shall not read the letter now, but shall include it in my remarks.

Now, this soldier enlisted, as the gentleman from New York has said, and was sent to Camp Mills, near New York, and on the 10th of May 1918 he was to have departed on the transport *Caserta* for the field of action in Europe. The records of The Adjutant General's office do not show that he ever left this country, and that is the difficulty in securing an adjustment of the claim. He had taken out war-risk insurance in the sum of $10,000, and the premium was paid so that it would have been carried until July 31, 1918.

There is where the official record stops. He is carried on the rolls as "missing since May 7, 1918, but not missing in action." The gentleman from New York [Mr. HANCOCK], I am sorry to say, used the word "suspicion" in respect to these letters that I have secured from the comrades of this boy. There is nothing suspicious about it. It is all perfectly open and aboveboard. They did not write me of their own volition. I got a list of his comrades from The Adjutant General's office, and I wrote to them and asked them what they knew about this case. Four of them wrote to me, not one of them knowing that I had written to the other—that they were with him in France when he was killed or that they personally knew about his being killed. There you have the evidence of four comrades of this boy that they were with him or near him when he was killed in France on the 29th of July or about that time, which was within the time that this insurance was still alive. One of them is Earl G. Reiser, of Charlottesville, Ind. I was trying to secure evidence that this boy was killed for his 88-year-old father and his mother, who is well along in the seventies, because I know that they are entitled to this money. Reiser says:

He was in my company and was wounded the same day that I was. That was in the afternoon of the 29th of July, 1918, at Sergy, France. We were both hit with a high explosive shell, and one of his legs was very nearly torn off. We were taken to the first-aid station, and they said there that there was no chance for him. I was sent from there to base hospital No. 1 in Paris, and Mr. McLoskey was left at the first-aid station, and I am sure that is where he died for they said that he did not have a chance to pull through.

Another veteran, Jerry Skaggs, of Michigan City, Ind., writes:

McLoskey was my buddy and we sailed for France on date of May 10, 1918, on transport *Caserta*.

That was the transport which I have said was to go at that time. The Department has no record that he sailed, but this comrade says that he did sail. He then goes on to say:

He was killed while by my side carrying ammunition for automatic rifles at Sergy on Ourque River on or about July 28 or 29, 1918.

The SPEAKER pro tempore (Mr. RAYBURN). The time of the gentleman from Indiana has expired.

Mr. LUDLOW. In the name of justice, Mr. Speaker, I ask the House to vote down this amendment. [Applause.]

Captain Miller's letter to which I referred is as follows:

THE AMERICAN LEGION,
NATIONAL REHABILITATION COMMITTEE,
Washington, D. C., March 11, 1938.

Hon. LOUIS LUDLOW,
House of Representatives, Washington, D. C.

MY DEAR MR. LUDLOW: Permit me to reaffirm my interest and confidence in the special bill for the relief of Meta de Rene McLoskey.

In over 14 years I have not advocated more than three or four special measures. I have been very close to this situation, however, and sincerely believe in it. We cannot tell what happened to him but his whole pre-war history is respect, tenderness, and regard for his mother—coupled with the nature of his letters after he entered into service, certainly are not graphic of a man who would turn his back on her and the world voluntarily. I really believe he is dead, although I cannot prove it. The mother believes she has given her son to the Nation and I share that belief.

I certainly appreciate your effective advocacy of this measure, and I can only hope that it will receive favorable consideration by Congress.

Sincerely,

WATSON B. MILLER,
National Director.

Following are three letters from comrades of Arthur Lee McLoskey, the veteran referred to in H. R. 4443, a bill for the relief of this veteran's mother, Mrs. Meta De Rene McLoskey. These veterans all state that they were with him in France and all agree that he lost his life in the action referred to:

CHARLOTTESVILLE, IND., *July 17, 1935.*

Mr. LOUIS LUDLOW,
Twelfth District Indiana, Washington, D. C.

DEAR SIR: I am answering your letter I received from you in regard to Arthur Lee McLoskey, Company I, Forty-seventh Infantry, Fourth Division. He was in my company and was wounded the same day that I was. That was in the afternoon of the 29th of July 1918, at Sergy, France. We were both hit with a high-explosive shell and one of his legs was very near torn off. We were taken to the first-aid station and they said there that there was no chance for him. I was sent from there to base hospital No. 1, in Paris, and Mr. McLoskey was left at the first-aid station, and I am sure that is where he died, for they had said that he did not have a chance to pull through.

So that is about all I can tell you about it, but I am sure that he had no chance to recover from the way he was wounded. So any information I can give that will help his parents, I will gladly do it.

Yours truly,

EARL G. REISER,
Rural Route 1, Charlottesville, Ind.

MICHIGAN CITY, IND., *July 2, 1935.*

Hon. LOUIS LUDLOW,
Congressman of Twelfth Indiana District, Washington, D. C.

DEAR SIR: In reply to your letter requesting information relative to Arthur Lee McLoskey, late of Company I, Forty-seventh United States Infantry, fourth division, I respectfully submit the following:

Arthur Lee McLoskey was my buddy, and we sailed for France on date of May 10, 1918, on transport *Caserta*.

He was killed while by my side carrying ammunition for automatic rifles at Sergy, on Ourque River, on or about July 28 or 29, 1918. This was about 9 a. m., and the first day our company saw action. Our second, McDannaugh, was also killed about this time.

Others that saw Private McLoskey killed by machine gunfire were Melvine R. White, employed by Post Office Department, Indianapolis, Ind.; Clyde R. Scholl, superintendent of Karstadt Cleaning Co., Indianapolis, Ind.; Earl Reisner, care American Legion, Knightstown, Ind.

The above can verify the statements I have made, in that each one was present at his death.

Trusting that this information may clear this matter up, I am,

Respectfully,

JERRY SKAGGS,
Mechanic Jerry Skaggs, Serial No. 2004745.

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750 SOUTH RESERVOIR STREET,
Pomona, Calif., October 11, 1937.

Hon. LOUIS LUDLOW,
House of Representatives, Washington, D. C.

DEAR MR. LUDLOW: In answer to your letter of September 9 with reference to Arthur Lee McLoskey I would state the following:

During action at Sergy, France, July 29, 1918, I remember McLoskey as a member of a certain squad, which I saw just a few minutes before I was wounded myself, move into position under cover of a wild rose bush. I was possibly 40 feet away when a large high-explosive shell struck this rose bush, by the fragment of which I was wounded. The bush was blown away and a large hole made in the ground.

While I never saw any member of this squad again, alive or dead, they were all reported killed. It is my belief and opinion they were all destroyed beyond recognition and probably their identification tags were never found.

I have no records or documents which would be of any use as evidence in this case.

Very sincerely,

LOUIS T. ROBERTS.

The SPEAKER pro tempore. The question is on agreeing to the amendment offered by the gentleman from New York.

The amendment was rejected.

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

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

ADDITIONAL JUDGES FOR UNITED STATES COURTS

Mr. SUMNERS of Texas. Mr. Speaker, I call up the conference report upon the bill S. 3691, to provide for the appointment of additional judges for certain United States district courts, circuit courts of appeals, and certain courts of the United States for the District of Columbia, and ask

unanimous consent that the statement be read in lieu of the report.

The SPEAKER pro tempore. Is there objection?

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 amendment of the House to the bill (S. 3691) to provide for the appointment of additional judges for certain United States district courts, circuit courts of appeals, and certain courts of the United States for the District of Columbia, 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 disagreement to the amendment of the House, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

"That the President is authorized to appoint, by and with the advise and consent of the Senate, four additional circuit judges, one for each of the following judicial circuits: Second, fifth, sixth, and seventh.

"SEC. 2. The President is authorized to appoint, by and with the advise and consent of the Senate, one additional associate justice of the United States Court of Appeals for the District of Columbia.

"SEC. 3. Section 2 of the Act entitled 'An Act authorizing the appointment of an additional circuit judge for the third circuit', approved June 24, 1936 (49 Stat. 1903), is hereby repealed.

"SEC. 4. The President is authorized to appoint, by and with the advise and consent of the Senate, twelve additional district judges, as follows:

"(a) One district judge for each of the following districts: Western district of Louisiana, southern district of Texas, eastern district of Michigan, western district of Washington, northern district of Illinois, western district of Virginia;

"(b) One district judge for the southern district of California, whose official residence shall be Fresno;

"(c) One district judge for the northern district of California, whose official residence shall be Sacramento;

"(d) One district judge for the southern district of New York: *Provided*, That the first vacancy occurring in the office of district judge for the southern district of New York by the retirement, disqualification, resignation, or death of judges in office on the date of enactment of this Act shall not be filled;

"(e) One district judge for the district of Massachusetts: *Provided*, That the first vacancy occuring in the office of district judge for the district of Massachusetts by the retirement, disqualification, resignation, or death of judges in office on the date of enactment of this Act shall not be filled;

"(f) One district judge for each of the following combinations of districts: Eastern and western districts of Arkansas; eastern and middle districts of Tennessee: *Provided*, That no successor shall be appointed to the judge for the eastern and middle districts of Tennessee.

"SEC. 5. The President is authorized to appoint, by and with the advice and consent of the Senate, three additional associate justices of the District Court of the United States for the District of Columbia.

"SEC. 6. That any vacancy which may occur at any time in the office of the United States district judge for the district of Montana created by the Act of September 14, 1922 (42 Stat. 837), is hereby authorized to be filled."

And the House agree to the same.

HATTON W. SUMNERS,
EMANUEL CELLER,
U. S. GUYER,
Managers on the part of the House.

CARL A. HATCH,
M. M. LOGAN,
WARREN R. AUSTIN,
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 bill (S. 3691) to provide for the appointment of additional judges for certain United States district courts, circuit courts of appeals, and certain courts of the United States for the District of Columbia, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The House passed the Senate bill after amending it by striking out all after the enacting clause and inserting its own provisions. The Senate disagreed to the House amendment and requested the conference, to which the House agreed. The conference report recommends that the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment, the amendment being to insert in lieu of the matter proposed to be inserted by the House amendment, the matter agreed to by the conferees, and the House agree thereto.

The following judgeships were contained both in the Senate bill and the House amendment in the same terms, and hence were not in conference: Four additional circuit judges, one for each of the following circuits: Second, fifth, sixth, and seventh. One additional associate justice of the United States Court of Appeals for the District of Columbia. One additional district judge in each of the following districts: Western district of Louisiana, southern district of Texas, eastern district of Michigan, western district of Washington, northern district of Illinois, southern district of New York, western district of Virginia, eastern and western districts of Arkansas.

Third circuit

The effect of the provision of the House amendment with regard to the third circuit is to fix the number of circuit judges in that circuit permanently at five. The Senate bill in different language accomplished the same purpose. The Senate receded and adopted the language of the House amendment.

Northern district of Ohio

The House amendment created an additional judgeship for the northern district of Ohio. The Senate bill did not. The House receded, and this proposed judgeship is omitted.

Northern district of Georgia

The House amendment provided for the appointment of one additional district judge for the northern district of Georgia. The Senate bill provided for one additional district judge for the northern, middle, and southern districts of Georgia.

In the conference report all provision for the appointment of an additional judge in Georgia is omitted.

District of New Jersey

The House amendment contained a provision authorizing the appointment of an additional judge for the district of New Jersey. The Senate bill did not. The House receded and the provision for this judgeship is omitted.

Northern district of California

The Senate agreed to the House provision that the official residence of the judge to be appointed for the northern district of California shall be Sacramento.

Southern district of California

The Senate also agreed to the House provision that the official residence of the judge to be appointed for the southern district of California shall be Fresno.

District of Massachusetts

The Senate bill provided for the appointment of an additional judge for the district of Massachusetts with the proviso that the first vacancy occurring in the office of district judge for the district of Massachusetts by the retirement, disqualification, resignation, or death of judges in office on the date of enactment of this act shall not be filled. The House bill created an additional judgship in that district without the limitation. The Conferees have retained the limitation contained in the Senate bill.

Eastern and middle districts of Tennessee

The Senate bill provided that one district judge should be appointed to serve both in the eastern and middle districts of Tennessee, and that his residence should be in the eastern district of that State. The House amendment also provided for the creation of this judgeship but omitted the requirement that his residence should be in the eastern district, and provided that no successor should be appointed to the judge to be appointed under this act. The provisions of the House amendment have been agreed to by the Senate conferees.

District Court for the District of Columbia

The Senate bill added only two judges to the District Court of the United States for the District of Columbia while the House amendment added three. The Senate receded and agreed to the addition of three judges to this court.

District of Montana

The House amendment contained a provision removing a limitation of existing law which prohibits the appointment of a successor to one of the district judges in Montana. The Senate bill contained no such provision, but the Senate conferees have agreed to its inclusion.

Eastern district of Pennsylvania

An additional district judge for the eastern district of Pennsylvania was authorized by the act of June 16, 1936 (49 Stat. 1523). Section 2 of that act provided that no appointment should be made to fill the first vacancy which should thereafter arise in that district. The House amendment proposed to repeal the limitation. The Senate bill had no such provision. The House receded and this part of the House amendment is stricken out.

HATTON W. SUMNERS,
EMANUEL CELLER,
U. S. GUYER,
Managers on the part of the House.

Mr. SUMNERS of Texas. Mr. Speaker, I do not desire to take the time of the House unnecessarily in explaining this conference report. I think it is fully explained in the statement of the managers, which has just been read. I shall make just one brief statement in respect to two of these judgeships in California. The bill undertakes to locate the

official residence of a judge in each of those two districts, one to be located at Sacramento and one at Fresno. There is no disposition as I understand on the part of the Committee on the Judiciary of the House, or on the part of the conferees, to limit these two judges to sitting in their respective places of official designation. They are to have general jurisdiction in the districts, but are to have particular responsibility with regard to the business tried in those two places, Sacramento and Fresno, and in that general section.

Mr. MICHENER. Mr. Speaker, will the gentleman yield?

Mr. SUMNERS of Texas. Yes.

Mr. MICHENER. The bill provides as to these judges, or at least one of them—

Whose official residence shall be Sacramento.

What does that mean?

Mr. SUMNERS of Texas. I understand that to mean that the judge is to have particular responsibility with regard to the business that arises there, and will be available for general duties at that place, as distinct, to use the expression, from sitting around San Francisco waiting for something to come up.

Mr. MICHENER. The gentleman may have used very fortunate language in his explanation, but it does not seem very clear to me. The judge lives in the district. The bill provides that his official home shall be Sacramento. I might demonstrate what I mean by this. Members of Congress come from their respective districts to serve in Washington.

The Board of Tax Appeals has held, and I think it is supported by other decisions, that the official residence of a Member of Congress is in Washington, that he performs his official duties in Washington; that he is elected to represent his people in the Congress, and he comes to Washington and renders the service in Washington. They allow us to deduct from our income-tax return the traveling expense, if we follow the decisions, one trip to Washington and one trip going home, on the theory that this is our official residence.

Is it intended to provide that this judge may live anywhere he sees fit; that is, he may reside anywhere he sees fit, he may have his home anywhere he sees fit, but when he is performing the duties of his office he must be in Sacramento? In other words is he so limited that he could not sign an order elsewhere in the district than Sacramento?

Mr. SUMNERS of Texas. No.

Mr. MICHENER. I would like a definite answer from the chairman of the Committee on the Judiciary rather than a general opinion.

Mr. SUMNERS of Texas. I may say to my friend that as I understand, when these judges are appointed they designate an official residence. We relieve these particular judges of that necessity as far as we can.

Mr. MICHENER. That is a polite way of putting it.

Mr. SUMNERS of Texas. Yes; that is a polite way of putting it.

Mr. MICHENER. The bill prevents them from selecting their residences.

Mr. SUMNERS of Texas. Yes; and we intend to do that; that is what we intend to do if we can.

Mr. MICHENER. The purpose, then, is to make the judge spend his time, his days and his nights, in Sacramento instead of living out in some other part of the district.

Mr. SUMNERS of Texas. Oh, he can go down to San Francisco once in a while.

Mr. MICHENER. That is just the point. I objected to this when the bill was under consideration in the House. It sets a precedent that I think is entirely wrong. I hope everybody will take judicial notice of the statement of our distinguished chairman as to just what this does mean, that we shall know we are going to provide that the judge can go down to San Francisco if he wants to some day, to do some shopping or for some other purpose. The gentleman does not attempt to go quite that far.

Mr. SUMNERS of Texas. I make this explanation seriously: Sacramento is the capital of the State. There are now three or four judges in San Francisco. As far as the committee could do it, and can do it, it wants to see to it that there is a judge available in Sacramento when his services are not needed for the trial of cases in the rest of the district, and I make the same statement with regard to Fresno.

Mr. MICHENER. So he would not have a vacation. If he wanted to leave to go to New York, the gentleman says it is the purpose to compel this judge——

Mr. SUMNERS of Texas. Do not put words into my mouth.

Mr. MICHENER. To compel this judge to stay in Sacramento where he might be needed when he has no official duties in other parts of the district.

Mr. SUMNERS of Texas. I say to my friend that I stand on the statement I made just a minute ago.

Mr. MAGNUSON. Mr. Speaker, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. MAGNUSON. I do not recall all the districts that were read by the Clerk. Can the gentleman tell me the status of the judgeship for the western district of Washington? Is that still in the bill?

Mr. SUMNERS of Texas. That is not disturbed.

Mr. MICHENER. Mr. Speaker, will the gentleman yield to permit me to make an observation?

Mr. SUMNERS of Texas. I yield.

Mr. MICHENER. Mr. Speaker, I want to call the attention of the House to the fact that this conference report eliminates two of the judgeships to which I objected when the bill was before the House, judgeships that clearly were not needed. This is shown by the number of judgeships which, in my opinion, were clearly political judgeships. Permit me to say further that the conference report does not eliminate several more of this type of judgeships. I see one in particular as illustrative of what I mean. I refer to the additional judgeship for the southern district of New York. The proof before the committee and the fact is that in the southern district of New York a case in equity can be heard within 4 months from the time of starting the case in equity, and you can get a hearing now within 2 months from the time you start a case in law. There possibly is not another district in the country where this is true; yet we are saddling upon the Government another district judge for the southern district of New York, a lifetime job at an expense of $10,000-a-year salary and all the trimmings that go with it.

What I say of New York, in my judgment, as I said when the matter was up before, is true of, I think, five other judges, if I remember.

Mr. SUMNERS of Texas. The New York judgeship was not in conference.

Mr. MICHENER. No. The New York judgeship was not, to the extent there was no difference between the two bills; however, the conferees are only limited by the four corners of the two bills, and conferees have brought in this year a conference report on similar matters to which they agreed to disagree.

Mr. SUMNERS of Texas. The gentleman will not contend that the New York judgeship could have been put in conference or was in conference?

Mr. MICHENER. Yes.

Mr. SUMNERS of Texas. The gentleman will not contend that the New York judgeship was in conference?

Mr. MICHENER. Yes. I contend that the judgeship was in conference because everything within the four corners of the House bill and the Senate bill was in conference. Very often it happens where conferees make certain changes and agree to compromises and necessarily make other changes in the two original bills where the bills were not different.

Mr. SUMNERS of Texas. The House agreed to the New York judgeship in identical language with the language of the Senate bill. Does the gentleman say that that item was in conference?

Mr. MICHENER. I have taken the gentleman's position in days gone by and I have been overruled. It has been held that when the two bills are in conference, everything within the two bills is before the conferees. It is the purpose of the

conferees to work out an agreement, and in doing so they may eliminate any part of both bills or any part of either bill and compromise on anything within the four corners of the bill.

Mr. Speaker, I want to compliment the conferees on cutting out the New Jersey judge, which clearly was not needed. I want to compliment them for cutting out the northern district of Ohio. That clearly was not needed. I am wondering how they came to leave the additional district judge for the Circuit Court of Appeals for the District of Columbia in here.

I noticed in last evening's paper a statement by Mr. Seal, in which he says that if they get these new district judges they can clean up the criminal calendar within 2 weeks. If we give them these additional judges it will permit them to clean up their calendar within 2 weeks. If the calendar is not in any worse shape than that, I am just wondering how much more vacation and how much shorter hours these judges will have after they bring the calendar down to date.

My colleagues may say that refers to the criminal calendar, which is true, but the criminal calendar always comes first. It is the criminal calendar that has been delaying things here, so we are told, to such an extent that the civil cases cannot be cleaned up. I realize that anything I say is hopeless, but sometimes there is a lot of consolation in talking.

Mr. SUMNERS of Texas. We want to console the gentleman all we can.

Mr. MICHENER. I have relieved myself and I have gotten a lot of consolation, because I feel I am eternally right. I feel just as sure as I am here that that will happen which has always happened since we have had the Judicial Conference, namely, the time will come when the House itself and the Judiciary Committee, including its distinguished chairman, will realize that this body will not go wrong when it follows the nonpartisan recommendation of the Judicial Conference.

Mr. HOUSTON. Will the gentleman yield?

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

Mr. HOUSTON. Does the gentleman always follow the Judicial Conference?

Mr. MICHENER. Yes.

Mr. HOUSTON. Did you follow it in the Viriginia case?

Mr. MICHENER. No, the committee did not, but I did. When a Member of Congress comes in here and wants a judge, if he is in position to put a wedge in the way or if he is in position to block a bill, it is almighty easy to add in an omnibus bill judges that are not needed in order to roll logs enough to pass the bill. That is what I mean. That is what has happened here. It happened in an Arizona judgeship. I do not hesitate to name places and cases, and my chairman will not deny it. I am opposed to that kind of thing.

Mr. MASON. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield to the gentleman from Illinois.

Mr. MASON. Will the gentleman tell me whether the conference committee disturbed the extra judgeship for northern Illinois?

Mr. SUMNERS of Texas. It did not.

Mr. CELLER. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield to the gentleman from New York.

Mr. CELLER. I want to direct the Members' attention to the situation that exists in the northern and southern districts of California where we provide that the official residence shall be Sacramento and Fresno.

May I say that the official residential requirement for each of these judges is not intended to restrict the full participancy of each in the judicial work of his district wherever he may be required to sit to perform his share. Like every other judge in the district, each is controlled by the provisions of title XXVIII, section 27, of the Judicial Code, providing that:

> In districts having more than one district judge, the judges may agree upon the division of business and assignment of cases for trial in said district; but in case they do not so agree, the senior circuit judge of the circuit in which the district lies, shall make all necessary orders for the division of business and the assignment of cases for trial in said district.

It is hoped that the judges who may be appointed under the provisions of this bill will abide by title XXVIII, section 27, of the Judicial Code and will each do their fair share of the business, regardless of the fact they may be designated as residing in Secramento, in one instance, and in Fresno in the other instance.

Mr. DOWELL. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield to the gentleman from Iowa.

Mr. DOWELL. The gentleman's definition of legal residence was not as clear to me as I would like to have it. Perhaps it is my fault. What distinction does the gentleman make between legal residence and the actual residence of a judge?

Mr. SUMNERS of Texas. The gentleman does make a distinction between the actual residence and the legal residence of the judge. The committee recognizes it cannot absolutely control the situation, but it has indicated as clearly as it can by language that what is desired is that there shall be a judge resident at each of these places designated, that he shall have special responsibility in that part of the district and that when he has finished with the business of the district in any other section he will be available there for work in chambers and available to the lawyers in that section. That is about as clearly as I can state it.

Mr. DOWELL. But the gentleman does not make a distinction between the legal and the actual residence.

Mr. SUMNERS of Texas. I believe, if the gentleman will permit me, I will stand by the statement I have just made as to what the committee has undertaken to do.

Mr. DOWELL. Of course, the committee could not legislate the residence of the judge.

Mr. SUMNERS of Texas. It would not undertake to legislate where he sleeps, but we would rather he would sleep as a rule in Sacramento than Los Angeles.

Mr. DOWELL. Under this bill you are seeking to do what you are unable to do legally, as I understand.

Mr. SUMNERS of Texas. We are doing all we can do legally and doing nothing illegally, if I may put it that way.

Mr. DOWELL. In other words, if the judge does not desire to live in the place you have suggested you have no legal control over him?

Mr. SUMNERS of Texas. I think I will not try a further statement. I will rest on the explanation made.

The SPEAKER pro tempore (Mr. PEARSON). The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

EXTENSION OF REMARKS

Mr. LUDLOW. Mr. Speaker, I ask unanimous consent to insert three brief letters in the remarks I made awhile ago in relation to title IX of the war claims bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. SUMNERS of Texas. Mr. Speaker, I am not sure about my explanation of the conference report, and I ask unanimous consent to revise and extend my remarks in the RECORD.

Mr. MICHENER. Reserving the right to object, Mr. Speaker, just so the gentleman does not leave my questions high and dry.

Mr. SUMNERS of Texas. The gentleman's questions are never dry and they are always high.

Mr. MICHENER. That may be true, but I just hope the gentleman in his revision will not make a statement that changes his position. If he maintains the same position and stands on what he said in the beginning, then my questions will not seem foolish; otherwise, they might.

Mr. SUMNERS of Texas. The gentleman's questions would never be foolish.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. HOUSTON asked and was given permission to extend his own remarks in the RECORD.

FOURTH OMNIBUS CLAIMS BILL

The SPEAKER pro tempore. The Clerk will call the next omnibus bill on the Private Calendar.

The Clerk called the bill (H. R. 9767) for the relief of sundry claimants, and for other purposes.

The Clerk read the title of the bill.

The Clerk read as follows:

Title I—(H. R. 599. For the relief of W. J. Steckel)

That the Secretary of the Treasury be, and he is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to W. J. Steckel, Bloomfield, Iowa, the sum of $240, the value of wood said to have been used by the Civilian Conservation Corps at Lake Wapello, Iowa, during the period from May to September 1933.

With the following committee amendments:

Page 1, line 8, after the word "of", strike out "$240, the value of wood said to have" and the word "been" in line 1 on page 2, and insert "$120 in full satisfaction of his claim against the United States for the value of wood owned by him, taken, and."

On page 2, line 4, after "1933" insert the following: "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendments were agreed to.

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

The Clerk read as follows:

Amendment offered by Mr. COSTELLO: On page 1, beginning in line 3, strike out all of title I.

Mr. COSTELLO. Mr. Speaker, the present bill has been amended by the committee so the amount of money that would be recovered therein has been reduced to $120.

The claimant had the right to go out and cut wood on Government land being cleared to create a lake. Mr. Steckel did cut the wood. On March 1, 1933, Mr. Steckel left stacks of wood cut and piled on this forest land. A C. C. C. camp was established nearby and the C. C. C. boys were sent over to this same forest land to obtain wood for the use of the camp. The rights Mr. Steckel had to cut wood had expired on March 1, 1933. After their expiration it was alleged that in May or September, some time during that period, the enrollees of the C. C. C. camp came in and removed some of the wood that allegedly belonged to Mr. Steckel. It is not clear whether the wood that was taken was actually his or not. It is not clear whether the C. C. C. enrollees actually took his wood or whether somebody else might have taken it. The fact is that the wood that was taken was cut in March and it was not actually taken until approximately 6 or 8 months later. Therefore, it seems that in view of the fact the investigation that was made fails to reveal any fault or negligence on the part of the Government or on the part of any employee or agent of the Government, there is no valid claim against the Government.

In view of the fact there is no valid proof and that the War Department has expressed itself as being opposed to the bill, I am sure the committee will accept my amendment by striking out this title.

Mr. CASE of South Dakota. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, the record is clear both from testimony submitted by the War Department and from affidavits that this man's wood was taken and was not paid for. I call attention to the report of the Secretary of War, shown on page 6 of the report, which states as follows:

On account of the various persons engaged in cutting wood, possibly some wood belonging to the claimant was taken to replace the wood taken from a pile owned by another civilian.

Then, the affidavit of a man by the name of Stufflebeam, shown on page 8 of the report, states that he was employed on this project and was familiar with it, and he makes these definite statements:

The camp boys also hauled from the wood on the lake area other wood to replace what they had taken from Kirk's. I know they took the two piles above mentioned of Mr. Steckel's wood for that purpose, and of all the wood that Steckel's men cut, Steckel never got but three wagon loads.

Then there is an affidavit by the chairman of the Iowa State Conservation Commission, on page 9, who states:

I told the captain, in clearing the lake bed, that there were several piles of wood that belonged to individuals, and that he should assure himself of its ownership, and make proper arrangements with its owners for its use.

So it is perfectly clear from the report of the War Department itself that the War Department did not follow the agreement and assure itself of the ownership of the wood taken. The report admits that some of the claimant's wood could have been used. The men who were working on the job said that some of the wood was used and was used to replace Kirk's wood.

The problem of the subcommittee was to determine how much had been used. The claimant put in a claim for 60 cords of wood. It was impossible by any of the evidence before the committee to show that 60 cords had been used, but the affidavits did show that two piles of wood, estimated at 30 cords, had been taken and consequently we reduced the original recommendation from $240 to $120, which represented 30 cords of wood at $4 a cord.

Mr. REES of Kansas. Mr. Speaker, will the gentleman yield for a question?

Mr. CASE of South Dakota. I yield.

Mr. REES of Kansas. Was it not also disclosed that the time this man had within which to get wood from the premises had expired about 6 months prior thereto? I think that was the statement of the gentleman from California. How does the gentleman from South Dakota answer that question?

Mr. COSTELLO. If the gentleman will yield, page 3 of the committee report, at about the twelfth line, shows that his contract expired about March 1, 1933.

Mr. REES of Kansas. It seems to me, if his contract had expired several months prior thereto, he should have taken the wood before the expiration of the contract.

Mr. CASE of South Dakota. I call the gentleman's attention in that connection to the affidavit of the chairman of the Iowa State Conservation Commission on page 9, which points out that it was the responsibility of the War Department to be sure that the wood they were taking did not belong to individuals, and that was the agreement under which the wood was to be taken in the first place. It was possibly unfortunate, as the Secretary of War points out in his report, that this man Boone, of the Conservation Commission, died prior to any opportunity to question him, but his statement is a matter of record, and it is perfectly clear that the negligence under the agreement was the negligence of the Government in determining the ownership of the wood it was taking. The Government took wood that did not belong to it and should pay for it.

Mr. REES of Kansas. It seems to me that this man who is putting in the claim today surely had some responsibility, and if he was entitled to this wood, he should have taken it away. How long do you suppose he could have left his wood there and still put in a claim for it of $120 or $240?

Mr. DOWELL. The gentleman would not contend that because he may have been negligent, although there is no evidence to show he was negligent, and if someone took his wood, therefore he would not be liable for payment. That would certainly be a strange proposition. He had a right to leave his wood there, and there is no question about whether it was there rightfully or wrongfully, and simply because he did not take it away was no reason why anyone should come along and take it away without being liable for its value.

This motion should be voted down.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California.

The question was taken; and the Chair being in doubt, the House divided, and there were—ayes 12, noes 15.

So the amendment was rejected.

The Clerk read as follows:

Title II—(H. R. 733. For the relief of George E. Titter)

That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to George E. Titter, of Chesapeake City, Md., the sum of $10,000. The payment of such sum shall be in full settlement of all claims against the United States for injuries sustained by him by reason of the construction by the War Department of a wharf in front of his land, thereby making said land inaccessible.

With the following committee amendment:

In line 22, after the word "inaccessible" strike out the period, insert a colon and the following: "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

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

The Clerk read as follows:

Amendment offered by Mr. COSTELLO: Page 2, beginning in line 13, strike out all of title II.

Mr. COSTELLO. Mr. Speaker, the present bill provides for the payment of $10,000 to the claimant as damage because of the construction of pile dolphins opposite the claimant's property, which abuts on the canal at Chesapeake City, Md. The damages proposed amount to two-thirds of the 1929 value of the property owned by Mr. Titter. This property is separated from a navigable canal by a mud flat, which prevents any substantial use of the claimant's property, as far as the canal is concerned. It seems that the claimant is not entitled to recover because the dredging work that the War Department did was done entirely within the rights and authority of the War Department to perform such work. If any damages are due to the claimant, then certainly $10,000 is an excessive amount in view of the fact that that is approximately two-thirds of the actual value of the entire property. The War Department, of course, has made an offer to the claimant that if at any time he desires to make use of the canal fronting on his property it would remove the pile dolphins in front thereof. However, this has not yet been done. I do not believe that the claimant has suffered the damages that he alleges. It is pointed out in the committee report that some offers were made to purchase the property, and that because of this improvement it was not possible to carry the purchase agreement through. As a matter of fact the offer to purchase was made in one year, and about 2 years later when they contacted the same parties, it was found that they had made purchases elsewhere along the river, and were not interested in the claimant's property. In view of the fact that the amount is excessive and that the War Department was acting entirely within its own rights in constructing the dolphins, I recommend that the title be stricken from the omnibus bill.

Mr. GOLDSBOROUGH. Mr. Speaker, I rise in opposition. Of course, we are all very grateful to those gentlemen who volunteer the necessary duty of opposing these claims. I am going to speak from the testimony taken and take the liberty of saying that I have personal knowledge of the truth of what the record contains. I pass by Chesapeake City at least 25 or 30 times a year. What happened was this: George Titter had a lot on the south bank of the Chesapeake & Delaware Canal with a frontage of about 800 feet. Down further to the west on the same side of the canal he had a large wood lot from which, the uncontradicted testimony shows, he received net $3,500 a year. He had no way to get the wood from his lot except by a scow because there was low ground between the wood lot and his property. That is the undisputed testimony. It is also the undisputed testimony that the Federal Government owns the north side of the Delaware & Chesapeake Canal; that when the time came to put these dolphins in they were to put them on the north side of the canal so that they would not interfere with Mr. Titter's property, but some rich clubmen from Wilmington came down and said to the captain at Wilmington, "We want the north side of the Delaware & Chesapeake Canal for our yacht clubs." So they were rented this ground at $1 a year, and the yacht club buildings were constructed on the north side of the Delaware & Chesapeake Canal, and these dolphins were put in front of George Titter's property, so that he could not get in there with his scow, and he has not been in there since 1929. That is the testimony and here is the photograph of what they did to him. There are the clubhouses on the north side of the canal put up by these rich Wilmingtonians, and these are the dolphins put down in front of George Titter's property, with the result of utterly destroying its value. It is also true that he was offered $15,000 for his property as a water front before those dolphins were put there, and after the dolphins were put there that offer was withdrawn because the lot was inaccessible. Furthermore, as I said before, these facts are personally known to me, and that situation has been a matter of public indignation in Chesapeake City ever since it happened. I ask that this amendment be voted down.

The SPEAKER pro tempore (Mr. PEARSON). The question is on the amendment offered by the gentleman from California.

The amendment was rejected.

Mr. COSTELLO. Mr. Speaker, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. COSTELLO: Page 2, line 18, after the words "sum of", strike out "$10,000" and insert "$5,000."

Mr. COSTELLO. Mr. Speaker, the committee report shows that the full value of this property in 1929 was $15,000. Even though there may be some damage to the use of the property it seems unreasonable to me that the sum of $10,000 should be paid, which is two-thirds of the value of the property. If the House intends to pass the bill, as it seems in the mind to do, I call attention to the fact that there is an identical bill following this where the claim is for $5,000. It seems to me that this amount of money should be reduced, and for that purpose I have offered an amendment to insert $5,000 instead of $10,000, which will be one-third of the value of the property instead of two-thirds.

Mr. GOLDSBOROUGH. Mr. Speaker, the evidence in this case is uncontradicted that for a period of 6 years this man lost $3,500 per year. This amounts in the aggregate to about $21,000. He could not get to his land except by scow, and the dolphins kept him from getting his scow in there. I do not believe the gentleman from California has ever seen these pictures or is familiar with the situation there.

Mr. COSTELLO. There is nothing in the report as to the amount of money he lost.

Mr. GOLDSBOROUGH. But it is in the testimony. We took testimony in this case before Mr. Duffy as a subcommittee.

I ask that the amendment be voted down.

Mr. FERGUSON. Mr. Speaker, will the gentleman yield?

Mr. GOLDSBOROUGH. I yield.

Mr. FERGUSON. What does the owner take from this land that is worth $3,500 a year if he could get a scow in there?

Mr. GOLDSBOROUGH. Further west he has a wood lot. He used to cut his wood during the spring and summer. He loaded it on scows, brought it up and put it on this property. Then he sold it at Chesapeake City, at Cecilton and Elkton. The sale of this wood netted him $3,500 a year; but he could not now get to his wood lot on account of these dolphins.

Mr. FERGUSON. But the wood is still there, if he cannot get it.

Mr. GOLDSBOROUGH. Yes; but he has no means of getting at the wood, there is no road from the wood lot to this lot; it is swampy according to testimony that is uncontradicted.

[Here the gavel fell.]

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California.

The question was taken; and the Chair being in doubt, the Committee divided, and there were—ayes 10, noes 20.

So the amendment was rejected.

EXTENSION OF REMARKS

Mr. O'MALLEY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD at this point and to insert therein an editorial from today's News.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. O'MALLEY. Mr. Speaker, when Robert Burns said so aptly, "O wad some power the giftie gie us, to see oursel's as ithers see us!" he had no way of knowing that his words might aptly apply to the infestation of noisy meddlers who seem bent upon making our relations with the rest of the world as difficult as possible. During the past year there seems to be thriving in our land an increasing crop of self-appointed spokesmen for America on foreign relations, who are laboring under the delusion that because of some transient title or temporary prominence they are divinely ordained to take the air or platform to voice loud and often intemperate opinions of affairs in other parts of the world which are no concern of ours or our peoples. These self-appointed "experts" on how to run the rest of the world are not doing such a marvelous job of handling our own problems to justify the time and thought they seem to be spending on the problems of foreign nations, yet their continuing blatancy is working irreparable harm to America's pursuit of peace and giving to irritated and nervous foreign nations a false impression of the historical policy of our people to mind our own business. No nation ever got into trouble by minding its own business and no nation can long stay out of war if it meddles in other nation's affairs.

Because many Americans view with alarm the growing tendency of many persons in temporary positions of prominence to voice their opinions on all and sundry questions, and because of the publicity given to these opinions the position of the American people in world affairs is often misconstrued, I hope some firm expression of our people will soon be made evident that they do not sympathize with these jingoes and saber rattlers who insist upon rocking the boat of American peace every time any storm blows in another part of the world.

The art of editorial writing has declined, Mr. Speaker, but every now and then, from the recesses of the editorial rooms, a sound piece of editorial advice breaks forth upon the pages of our daily newspapers. In today's Washington Daily News there appears such an editorial, and because it so clearly describes a growing evil among even our best-intentioned public officials and because it prescribes such sound advice, I ask unanimous consent that it be inserted with my remarks and I commend its reading not only to Members of Congress and the American people but to all those in public life who may feel the urge, justly or otherwise, to meddle, by voice or action, in the affairs of other nations, when those affairs, imbroglios, or quarrels do not interfere with us.

[From the Washington Daily News of May 17, 1938]

LEADING WITH OUR CHIN

Little by little of late we Americans have allowed ourselves to slip into a pleasant but dangerous habit which, unless we snap out of it, will lead to real trouble. We refer to the habit of reading the riot act to foreigners and their governments.

If the habit were confined to private citizens it would not be serious. As normal human beings we can't help thinking our own thoughts, and this being a free country we have a constitutional right to express them.

But the habit is not confined to private citizens. It is not even confined to the President and his Secretary of State, whose sole right it is to deal with foreign governments. High officials, including members of the Cabinet, are more and more indulging in this dangerous game.

Not long since, Interior Secretary Harold L. Ickes, in an international broadcast entitled "America Speaks," specifically recommended to Great Britain stronger bonds between the democracies to counter the "ominous and bodeful phalanx" of fascism.

Still more recently, to cite another example, Secretary of War Harry H. Woodring, in effect, warned the totalitarian states that unless they watch their step, the first thing they know the democracies will have them on the battlefield. In his speech he mentioned Germany, Italy, and Japan.

There was little surprise when, last week end, Mussolini hit back. If the democracies insist upon a "doctrinal war," he indicated, they can have it. But if they do, he added, "the totalitarian states will form a bloc and march together to the end."

Nor was the Duce the only one to pick up the gantlets thus thrown down by our orators. Anger and amazement were registered in unflattering terms in Germany and Japan as well. And why not? If we will stick out our chin, we can be reasonably certain that somebody will accommodate us with a poke.

It is all very bellicose and not a little stupid. It is stupid because needless. There is no call for saber rattling, at least on our part. Certainly it is a game which we would do well not to play. The President could and should stop it. His is the constitutional authority to speak for America in foreign matters, personally or through his Department of State, and when others intrude they hinder far more often than they help.

It is a bootless business from start to finish. It can bring trouble but never profit. It is the sort of thing that materially helped to bring on the World War. Europeans sneered and jeered and jangled their swords at each other across their frontiers, piling up hates and fears which were one day to break their bounds and deluge the continent with blood.

As a practicing democracy, the kind of government other nations have is none of our business. It becomes our business only when they interfere with us. Not until then should we talk big—and then only after proper advice and only through those whose constitutional duty it is to do so, and behind whom stands the national defense. For that is what an adequate army and navy are for—to defend our own land and its institutions, not to lick the other fellow because we dislike his.

It is worse than silly for us to begin now to imitate the Old World procedure of taunts, threats, and name calling. Of the same foolish pattern is the proposal now being advanced by some so-called administration spokesmen—to have the United States Government construct a huge radio broadcasting station for the purpose of flooding Latin America with official propaganda in competition with truth-careless Europe. We sincerely hope our Government does no such thing. For in time the people on the receiving end come to discount whatever they pick up and refuse to believe anything that's official, even though it be the truth.

We Americans say we want to be neutral. Congress, Cabinet, press, pulpit, and public forums all say the same thing. We say we don't want to be caught up in any foreign entanglements. We say we want peace. Well, let's prove it by sticking a little bit closer to our own knitting.

OMNIBUS PRIVATE CLAIMS BILL

The Clerk read as follows:

Title III—(H. R. 736. For the relief of Mallery Toy)

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Mallery Toy, of Chesapeake City, Md., the sum of $5,000. The payment of such sum shall be in full settlement of all claims against the United States for injuries sustained by him, by reason of the construction of a wharf, and the depositing of dredged material on and in front of his land, by the War Department.

With the following committee amendment:

Line 15, strike out "the construction of a wharf, and."

Line 17, after the "Department", insert: "*Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendments were agreed to.

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

The Clerk read as follows:

Amendment offered by Mr. COSTELLO: Page 3, strike out all of title III.

Mr. COSTELLO. Mr. Speaker, as previously stated, this bill is similar to the last one except $5,000 is offered as damages to the claimant Toy for the deposit of dredged material on property fronting upon the Chesapeake & Delaware Canal. Under the Maryland law it was perfectly proper and permissible for the War Department to deposit this dredged material upon this land. Over and above the fact that the War Department had this legal right under the Maryland law, the claimant gave permission to the War Department for the dumping of this material. It appears, therefore, that rather than being damaged the property of the claimant was actually improved by having the high-water mark raised and taking the land out of the classification of marshy land,

making it high, dry ground, and adding to the size of the lot the claimant owned. As a result it appears that as far as the dredged material is concerned the claimant derived a benefit instead of receiving a damage.

As in the preceding case, however, pile dolphins were placed in front of this claimant's property; so I presume it is idle for me to oppose the bill, in view of the action of the committee on the preceding bill. I think, however, the amount offered is excessive, for I feel that the claimant has received an actual benefit, rather than a material damage, and that the War Department is acting entirely within its right in constructing the dolphins and in depositing the dredged material.

For these reasons I trust the committee will accept my amendment.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. COSTELLO. I yield.

Mr. CARTER. Was this a river and harbor improvement?

Mr. COSTELLO. It is part of the regular dredging work in this canal.

Mr. CARTER. There is a provision in connection with river and harbor work that local interests must assume the burden of obtaining a place to dump the dredged material.

I am not familiar with the particular rivers and harbors project, but it would seem to me, if there is such provision in the Rivers and Harbors Project Act, this claim might be lodged against the local interests that failed to provide a place to dump the soil.

Mr. COSTELLO. In this particular instance the claimant, Toy, gave permission for the dumping of this dredged material on his ground. For this reason he has been twice put in the position where he has no right to claim redress.

[Here the gavel fell.]

Mr. GOLDSBOROUGH. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, of course, the gentleman from California [Mr. COSTELLO] has so many of these cases that it is impossible for him to differentiate. He understands this is an ordinary river and harbor project; but, on the contrary, this involves the dredging of the Delaware and Chesapeake Canal, which is not an ordinary dredging project. The evidence in the case, as testified to by Mr. Toy, was that he objected strenuously to the dumping of this material on his lot, and you will not find any other evidence in the record.

Mr. COSTELLO. Will the gentleman yield?

Mr. GOLDSBOROUGH. I do not remember what the Government engineer testified to. He admitted that he had no personal knowledge of it.

Mr. COSTELLO. In the committee report is a letter from the War Department, signed by Patrick J. Hurley, in which there is that statement.

Mr. GOLDSBOROUGH. I cannot yield further. The War Department; yes. If it is the War Department statement, of course, they are going to vindicate themselves. But I am talking about the testimony that was taken before Mr. DALY, who was the subcommittee. All of that testimony showed that Mr. Toy begged them not to dump this mud on his frontage.

The situation there was as follows, and I want to just tell you what the Government did in this case. When they dredged the Delaware & Chesapeake Canal they put that mud on the north side of the canal, but when these Wilmington people came down they said they did not want the mud there in front of their clubhouses; so the Government took the mud off the bottom of the Chesapeake & Delaware Canal at their instance and dumped it all in front of Mr. Toy's property. Mr. Toy had high land which went right down to the canal, and they made it marshland by dumping this material that they had taken from the north side of the canal to the southern side of the canal in the interest of the wealthy residents of Wilmington who owned these lots.

Here is a picture of the situation, and I may say this picture was not taken by us. It was taken by the War Department. This shows the high ground that was owned by Mr. Toy, and it shows this marsh which is the result of the material being dumped by the Board of Engineers for Rivers and Harbors. This picture was taken by the War Department, as I stated. Anybody who goes to Chesapeake City and asks about this will be told this is one of the greatest outrages ever perpetrated on anybody in that community.

I ask that the amendment offered by the gentleman from California be defeated.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California [Mr. COSTELLO].

The question was taken; and on a division (demanded by Mr. COSTELLO) there were—ayes 10, noes 22.

Mr. COSTELLO. Mr. Speaker, I object to the vote on the ground that there is not a quorum present.

The SPEAKER pro tempore. Evidently there is not a quorum present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify the absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 74, nays 186, not voting 167, as follows:

[Roll No. 78]

YEAS—74

Allen, Ill.	Dirksen	Kitchens	Rogers, Mass.
Andresen, Minn.	Dondero	Kniffin	Seger
Ashbrook	Dowell	Lambertson	Shafer, Mich.
Bacon	Doxey	Lambeth	Smith, Conn.
Barton	Engel	Ludlow	Smith, Maine
Biermann	Farley	McFarlane	Taber
Brewster	Ferguson	McKeough	Taylor, Tenn.
Cannon, Mo.	Fitzgerald	Martin, Mass.	Thom
Carter	Forand	Mason	Tinkham
Casey, Mass.	Ford, Miss.	Michener	Treadway
Church	Gamble, N. Y.	Mott	Turner
Clason	Gearhart	O'Brien, Mich.	Umstead
Cluett	Gilchrist	O'Connell, R. I.	Welch
Cochran	Gwynne	Oliver	Wigglesworth
Colmer	Hancock, N. Y.	Plumley	Wolcott
Cooper	Hobbs	Polk	Woodruff
Costello	Holmes	Reed, N. Y.	Woodrum
Crawford	Hope	Rees, Kans.	
Crowther	Johnson, W. Va.	Rockefeller	

NAYS—186

Aleshire	Fleger	Lanzetta	Powers
Allen, Del.	Fletcher	Larrabee	Rabaut
Amlie	Frey, Pa.	Leavy	Ramspeck
Anderson, Mo.	Fries, Ill.	Lesinski	Rayburn
Arnold	Fuller	Lewis, Colo.	Reece, Tenn.
Atkinson	Fulmer	Lucas	Reed, Ill.
Barden	Gambrill, Md.	Luckey, Nebr.	Rigney
Barry	Garrett	Luecke, Mich.	Robertson
Beiter	Gehrmann	McAndrews	Robinson, Utah
Bernard	Goldsborough	McCormack	Robsion, Ky.
Bigelow	Gray, Ind.	McGehee	Romjue
Binderup	Green	McLaughlin	Sabath
Bland	Greenwood	McSweeney	Sadowski
Bloom	Greever	Maas	Sanders
Boehne	Gregory	Magnuson	Sauthoff
Boileau	Griffith	Mahon, S. C.	Schaefer, Ill.
Boyer	Guyer	Mahon, Tex.	Schuetz
Boykin	Haines	Mapes	Scott
Brooks	Hamilton	Martin, Colo.	Secrest
Brown	Harlan	Massingale	Shanley
Buckler, Minn.	Harrington	Maverick	Sheppard
Byrne	Hart	Meeks	Smith, Va.
Caldwell	Havenner	Mills	Smith, W. Va.
Carlson	Healey	Mitchell, Tenn.	Somers, N. Y.
Cartwright	Hendricks	Mouton	South
Case, S. Dak.	Hill	Murdock, Ariz.	Sparkman
Celler	Honeyman	Murdock, Utah	Spence
Champion	Hook	Nelson	Starnes
Clark, N. C.	Houston	Nichols	Stefan
Coffee, Nebr.	Hull	Norton	Terry
Coffee, Wash.	Hunter	O'Brien, Ill.	Thomas, N. J.
Connery	Imhoff	O'Connell, Mont.	Thomas, Tex.
Cooley	Izac	O'Leary	Thompson, Ill.
Cox	Jacobsen	O'Malley	Tolan
Cravens	Jarman	Owen	Towey
Crosser	Jenckes, Ind.	Pace	Transue
Crowe	Johnson, Luther A.	Palmisano	Vincent, Ky.
Dies	Johnson, Lyndon	Parsons	Vinson, Ga.
Dingell	Johnson, Minn.	Patman	Voorhis
Disney	Johnson, Okla.	Patrick	Warren
Dixon	Jones	Patterson	Whittington
Driver	Kee	Patton	Wilcox
Eicher	Keller	Pearson	Williams
Elliott	Kennedy, Md.	Peterson, Fla.	Wolverton
Evans	Kocialkowski	Peterson, Ga.	Zimmerman
Fernandez	Kvale	Pierce	
Flaherty	Lanham	Poage	

NOT VOTING—167

Allen, La.	Douglas	Kopplemann	Ryan
Allen, Pa.	Drew, Pa.	Kramer	Sacks
Andrews	Drewry, Va.	Lamneck	Satterfield
Arends	Duncan	Lea	Schneider, Wis.
Bates	Dunn	Lemke	Schulte
Beam	Eaton	Lewis, Md.	Scrugham
Bell	Eberharter	Long	Shannon
Boland, Pa.	Eckert	Lord	Short
Boren	Edmiston	Luce	Simpson
Boylan, N. Y.	Englebright	McClellan	Sirovich
Bradley	Faddis	McGranery	Smith, Okla.
Buck	Fish	McGrath	Smith, Wash.
Buckley, N. Y.	Fitzpatrick	McGroarty	Snell
Bulwinkle	Flannagan	McLean	Snyder, Pa.
Burch	Flannery	McMillan	Stack
Burdick	Ford, Calif.	McReynolds	Steagall
Cannon, Wis.	Gasque	Maloney	Sullivan
Chandler	Gavagan	Mansfield	Sumners, Tex.
Chapman	Gifford	May	Sutphin
Citron	Gildea	Mead	Sweeney
Clark, Idaho	Gingery	Merritt	Swope
Claypool	Gray, Pa.	Mitchell, Ill.	Tarver
Cole, Md.	Griswold	Moser, Pa.	Taylor, Colo.
Cole, N. Y.	Halleck	Mosier, Ohio	Taylor, S. C.
Collins	Hancock, N. C.	O'Connor, Mont.	Teigan
Creal	Harter	O'Connor, N. Y.	Thomason, Tex.
Crosby	Hartley	O'Day	Thurston
Culkin	Hennings	O'Neal, Ky.	Tobey
Cullen	Hildebrandt	O'Neill, N. J.	Wadsworth
Cummings	Hoffman	O'Toole	Wallgren
Curley	Jarrett	Pettengill	Walter
Daly	Jenkins, Ohio	Pfeifer	Wearin
Deen	Jenks, N. H.	Phillips	Weaver
Delaney	Kelly, Ill.	Quinn	Wene
Dempsey	Kelly, N. Y.	Ramsay	West
DeMuth	Kennedy, N. Y.	Randolph	Whelchel
DeRouen	Keogh	Rankin	White, Idaho
Dickstein	Kerr	Reilly	White, Ohio
Ditter	Kinzer	Rich	Withrow
Dockweiler	Kirwan	Richards	Wolfenden
Dorsey	Kleberg	Rogers, Okla.	Wood
Doughton	Knutson	Rutherford	

So the amendment was rejected.

The Clerk announced the following pairs:

Additional general pairs:

Mr. Doughton with Mr. Snell.
Mr. Kerr with Mr. Short.
Mr. Collins with Mr. Halleck.
Mr. Mead with Mr. Luce.
Mr. May with Mr. White of Ohio.
Mr. Chandler with Mr. McLean.
Mr. Rankin with Mr. Eaton.
Mr. Dempsey with Mr. Knutson.
Mr. Dickstein with Mr. Cole of New York.
Mr. Edmiston with Mr. Arends.
Mr. Schulte with Mr. Rutherford.
Mr. Gasque with Mr. Andrews.
Mr. Thomason of Texas with Mr. Lord.
Mr. Dockweiler with Mr. Jenkins of Ohio.
Mr. O'Neal of Kentucky with Mr. Bates.
Mr. Kramer with Mr. Englebright.
Mr. O'Connor of New York with Mr. Burdick.
Mr. Merritt with Mr. Withrow.
Mr. Randolph with Mr. Teigan.
Mr. Faddis with Mr. Wood.
Mr. Boren with Mr. Pettengill.
Mr. Ford of California with Mr. Sutphin.
Mr. Lewis of Maryland with Mr. McGroarty.
Mr. Gavagan with Mr. Mitchell of Illinois.
Mr. Kennedy of New York with Mr. Ramsay.
Mr. Pfeifer with Mr. Dorsey.
Mr. Kleberg with Mr. Keogh.
Mr. Swope with Mr. Kelly of Illinois.
Mr. Scrugham with Mr. O'Neill of New Jersey.
Mr. Beam with Mr. Wearin.
Mr. Sirovich with Mr. Dunn.
Mr. Bulwinkle with Mr. Wallgren.
Mr. Smith of Washington with Mr. Creal.
Mr. Deen with Mr. O'Toole.
Mr. Sacks with Mr. Thomason of Texas.
Mr. Whelchel with Mr. Bell.
Mr. Lamneck with Mr. Allen of Louisiana.
Mr. McGrath with Mr. Satterfield.

Mr. DISNEY and Mr. HARRINGTON changed their votes from "yea" to "nay."

Mr. COLMER changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

The Clerk read as follows:

Title IV—(H. R. 858. For the relief of Carrie M. Clements, widow, and Margie P. Clements, James D. Clements, and Elieza V. Ball, children of Dr. David Oscar Clements, deceased)

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Carrie M. Clements, widow of Dr. David Oscar Clements, of Gloucester County, Va., deceased, and to Margie P. Clements, James D. Clements, and Elieza V. Ball, children of the said Dr. David Oscar Clements, the sum of $7,216 due to the said widow and children of the said Dr. David Oscar Clements, deceased, because of the destruction, in January 1918 of a wharf owned by the said Dr. Clements, located on York River, near Gloucester Point, Va., the said wharf having been destroyed by reason of Navy ice-breaking tugs breaking ice adjacent to said wharf.

With the following committee amendment:

Strike out all after the enacting clause and insert:

"That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the administrator of the estate of Dr. David O. Clements, deceased, formerly of Gloucester County, Va., the sum of $7,216, in full satisfaction of all claims against the United States for the value of a wharf located on the York River, approximately 3 miles from Gloucester Point, Va., built and owned by Dr. David O. Clements, and destroyed in January 1918 by ice broken by United States Navy ice-breaking tugs in clearing the York River, used at that time as the base for the Atlantic Fleet: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendment was agreed to.

Mr. REES of Kansas. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REES of Kansas: On page 4, beginning in line 1, strike out all of title IV.

Mr. REES of Kansas. Mr. Speaker, this is a claim that has been pending for a long time, as you will observe if you will read the report. It is a claim for damages alleged to have occurred away back in 1918, 20 years ago. If this Congress wants the Government to go ahead and pay these alleged damages for more than $7,000, all right. If you do not want to give this matter any serious consideration, well and good; but from reading this report I think you will determine that after all the Government was within its rights and was performing its duty in breaking the ice on that river. It is unfortunate if it happened to damage somebody's property. It happened that this wharf was damaged, but it seems to me it is not the fault of the Government as long as the Government performed its duty in breaking the ice on the river. That is all there is to it, as I see it.

Mr. BLAND. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, this claim has been before the Senate at other times, and when it came before the House objection was made. The bill was considered again by the present Committee on Claims, but I am not going to rely on that.

In the winter of 1917 and 1918 a very severe ice condition in the York River had practically frozen the river over. The lower part of the river was used by the Atlantic Fleet as a base. This was during the war. In order to protect the fleet in that zone, there was a net across the mouth of the river and then a net above this wharf. In order to keep the river open for its fleet, the Navy was constantly plying its tugs up and down the river. The result was that the ice piled up on the wharf and destroyed it. A wharf just a short distance above the upper net stood the rigor and was not destroyed at all.

The matter was submitted to a naval investigating board and that board in 1920 went carefully into the question and found out when the wharf was built, in 1905, and then went on and ascertained all the various facts I have stated. The board then concluded that this was a liability that should be borne by the Government. This was a naval board of inquiry.

In 1920, very shortly after the incident occurred, the naval board of inquiry ascertained that the amount specified in this bill, $7,216, was a proper item of award, so it is not a matter that comes up at this late date but a matter that was studied by the Navy soon after the event. The Navy Department reported against the bill because they said they

had a right to run their tugs up and down the river and they were not responsible or liable for any damage that accrued. However, the fact is that this citizen of this county, owning this wharf, had the wharf destroyed, according to the naval board of inquiry, by the operations of the Navy Department, and a similar wharf, similarly situated but a few miles up the river where the tugs were not operated, withstood the ice. The tugs were operated only between the net above the wharf and the net below the wharf, causing the ice to pile up on the wharf and carry it away.

I submit the Government under these circumstances should pay this claim. Affidavits were submitted by men who knew the value of the wharf, and there is an affidavit here of a bank cashier that the value of the wharf was $10,000. There are affidavits of similar import from other citizens who knew the value of the wharf. However, this bill is not asking the payment of that amount but is asking the payment of that amount only which was found by the naval board of inquiry to be proper. I submit the claim should be paid.

Mr. HANCOCK of New York. Mr. Speaker, will the gentleman yield?

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

Mr. HANCOCK of New York. Was there anything improper about the ice-breaking operations of the Navy? On the contrary, was it not the duty of the Navy to keep navigation open?

Mr. BLAND. It may be true that is the duty of the Navy, but under those circumstances it is very much like taking private property without due process of law and without paying compensation therefor. If the Navy Department had taken the wharf of this man, it would have paid compensation for it, but by the operation of its naval tugs it destroyed the wharf by the piling up of the ice, and it proposes not to pay compensation therefor.

Mr. HANCOCK of New York. Does not the Navy break the ice every time the ice forms?

Mr. BLAND. No. The ice is piled up by the Navy tugs right along.

Mr. HANCOCK of New York. The Navy breaks the ice, or attempts to, whenever it forms.

Mr. BLAND. I do not know about that, but I know the naval board of inquiry found that it was the piling up of this ice on the wharf that caused the damage to the wharf.

[Here the gavel fell.]

The SPEAKER pro tempore (Mr. COOPER). The question is on the amendment offered by the gentleman from Kansas [Mr. REES].

The amendment was rejected.

The title was amended so as to read: "A bill for the relief of the estate of Dr. David O. Clements, deceased."

The Clerk read as follows:

Title V—(H. R. 1861. For the relief of the firm of Schmidt, Garden & Martin, architects, of Chicago, Ill.)

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $90,000 to the firm of Schmidt, Garden & Martin, architects, of Chicago, Ill., in full settlement of all claims against the Government for architectural services rendered at the time of the construction of the Edward Hines, Jr., Hospital, situated in Maywood, Ill., now operated by the United States Veterans' Administration: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Strike out all after the enacting clause and insert the following: "That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the firm of Schmidt, Garden & Martin, of Chicago, Ill., the sum of $86,178.86, in full satisfaction of all claims against the United States for architectural services rendered in preparing the plans and specifications for and supervising the construction of the United States Veterans' Administration hospital at Maywood, Cook County, Ill. (known as the Edward Hines, Jr., Hospital), and for the subsequent use of said plans and specifications in the completion of said hospital by the Supervising Architect of the Treasury Department under authority of the act of March 3, 1919 (40 Stat. 1302), the original construction having been begun under the supervision of the War Department in August 1918 with said plans and specifications of Schmidt, Garden & Martin: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendment was agreed to.

EXTENSION OF REMARKS

Mr. FORAND. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and also ask unanimous consent to extend my remarks in the RECORD by inserting a copy of a letter I received and my reply thereto.

The SPEAKER pro tempore (Mr. COOPER). Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

Mr. BACON. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein a very brief editorial.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

OMNIBUS CLAIMS BILL

The Clerk read as follows:

Title VI—(H. R. 2149. For the relief of Capt. Guy L. Hartman)

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated and in full settlement against the Government, the sum of $20,000 to Capt. Guy L. Hartman, as reimbursement for loss suffered upon forfeiture of appearance bonds by United States commissioner in Kansas City, Mo., May 22, 1915, in connection with prosecution of cases wherein complete recovery was had by the Government: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Mr. HANCOCK of New York. Mr. Speaker, I offer an amendment.

Mr. PETERSON of Florida. Mr. Speaker, I make the point of order against the amendment that the Clerk had started reading title VII before the amendment was offered.

The SPEAKER pro tempore. The gentleman from New York appears to have shown due diligence in the offering of the amendment, and the point of order is therefore overruled.

The Clerk read as follows:

Amendment offered by Mr. HANCOCK of New York: Page 7, line 12, strike out all of title VI.

Mr. HANCOCK of New York. Mr. Speaker, this is one of the oldest and most persistent claims on the Private Calendar. It seems the claimant in this case was one of a group of four men who were arrested in 1915 for running an illicit distillery some place in Arkansas. He was arrested and released on $20,000 bail. Twelve days before he was due to appear before the commissioner he left the United States and went to Mexico, where he remained for a couple of years. I think it is a fair inference that he went to Mexico for the purpose of avoiding prosecution and to avoid giving testimony.

While in Mexico he joined the Pershing punitive expedition, rendered valuable service as a scout, and, evidently upon the advice of his commanding officer who thought very well of him, he returned and surrendered to the American authorities. An arrangement was made whereby this claimant, Captain Hartman, turned State's evidence, testified against his codefendants, forfeited his bail bond, and in return the case against him was nol-prossed.

It is perfectly obvious that the action taken was the result of an agreement between Hartman, his attorney, and the prosecuting officials of the Government which was reached either before Hartman returned from Mexico or soon after his surrender.

It was a serious case of lawbreaking in which Hartman was involved. The illicit still had been running during the years 1912, 1913, 1914, and 1915, had manufactured and sold several hundred thousand barrels of whisky without paying any tax. One of the defendants settled his case for $100,000, one went to jail for 14 months, and then was pardoned, and one or two others were acquitted.

Subsequent to this disposition of the cases, Hartman, with his record technically clear and no criminal conviction against him, joined the expeditionary forces and made a remarkable record as a soldier overseas. Whoever is sponsoring this claim will, undoubtedly, enlarge upon Hartman's record as a soldier in France. There is nothing else to be said in defense of this claim.

The point I am emphasizing is the man committed a crime, made a settlement with the Federal authorities whereby he escaped prosecution upon turning State's evidence and surrendering his bail. We are now asked, 21 years later, to upset and overrule the arrangement made by the officials of the Department of Justice and find that they did not properly perform their duties.

This case has been here for many years. Private bills to reimburse Hartman for his forfeited bail bonds have been offered at different times by Representatives from several different States. I remember that gentlemen from Missouri, Indiana, and now Florida have offered this same identical bill. It has always been defeated in one way or another before, and it ought to be defeated again. Certainly you cannot possibly imagine, with the list of vetoes of bad private bills the President has to his credit, that he would permit any such travesty on the administration of justice as here proposed to become a law.

Mr. PETERSON of Florida. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, the facts in this case are that Capt. Guy Hartman, who at that time was a young North Carolinian, was taken advantage of by a group engaged in the illicit distillation of liquor. At the time, while he was ill, the bond was ordered estreated, and from the facts in the case it is my opinion this was done, hoping he would stay away and those who were actually guilty would place the blame upon him.

Mr. RAMSPECK. Mr. Speaker, will the gentleman yield?

Mr. PETERSON of Florida. Yes; I yield to the gentleman from Georgia.

Mr. RAMSPECK. I would like to say to the gentleman and to the House that I have made a very careful study of this case, and it is my conscientious opinion that this man was imposed upon by more astute people, and if it had not been for his return and turning state's evidence the Government would have lost hundreds of thousands of dollars that were collected by virtue of his evidence.

Mr. PETERSON of Florida. I thank my colleague for his statement, which is correct.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. PETERSON of Florida. Yes.

Mr. CARTER. I am wondering who put up this $20,000, whether this man put it up individually, or it was put up by a bonding company, and if reimbursement is made, whether it would not go to the bonding company.

Mr. PETERSON of Florida. I am very glad the gentleman asked that question. It was put up by this man's father and family the record shows, and it practically bankrupted the family at that time. Captain Hartman came back from Mexico voluntarily and surrendered and assisted in the prosecution of the case and brought more than $100,000 into the Treasury of the United States. In addition to that the record shows that Captain Hartman was a country-bred, unsophisticated young man imposed upon and made a tool of by older men, some of whom were Government officials conspiring to defraud the Government of whisky excise taxes.

Mr. HANCOCK of New York. Mr. Speaker, will the gentleman yield?

Mr. PETERSON of Florida. Not now. In addition to that, the Deputy Commissioner of Internal Revenue, who was interested in the prosecution of these cases, states this in a letter to Vincent Miles:

> I don't know a great deal about him. However, I have always felt that he was anything but a bad man and that he got into the conspiracy originally more because of environment than because of inherent viciousness. He was certainly square and manly in his dealings with the Government after he returned to this country.

In addition to that it was set forth in the report "that nowhere does the record show any criminal intent upon the part of Hartman to defraud the Government." Further, Captain Hartman's father raised $12,000 toward the amount of the bond and as a result his estate was practically bankrupt.

Further in the report it is stated:

> Despite the difficulties in which Hartman found himself, his loyalty to his country never wavered. The committee has concluded that the evidence warrants the belief that Captain Hartman did not leave Missouri to avoid his appearance, as was contended, and further that because of the aid he rendered the Government, he is deserving, and restitution ought to have been made of the amount of the bonds, especially in view of the sickness that prevented his appearance in Kansas City, on May 22, 1915, and his subsequent material service to the Government, and heroic actions on the battlefields in France.

He served the Nation well in France and was decorated; the citation says:

> After having been painfully wounded, Lieutenant Hartman refused to go to the rear for treatment.

He went back into the gas-infested area and was twice decorated and the report shows that at all times he acted as a man. This young North Carolinian came back from Mexico and surrendered and helped the Federal Government. The incident practically bankrupted his father and his family. Before I went into this matter I wanted to get at the facts. I prosecuted for 12½ years and I am inherently prejudiced against the illicit sale of liquor. I asked people who knew him including the editor of one of the papers in my home town who had known him. His wife's parents live in my district. Those who knew him spoke highly of him. I hope the amendment will be voted down.

The SPEAKER pro tempore. The time of the gentleman from Florida has expired.

Mr. HOBBS. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER pro tempore. The Chair under the rules cannot entertain that request. The question is on the amendment offered by the gentleman from New York.

The question was taken; and on a division (demanded by Mr. HANCOCK of New York)—ayes 33, noes 46.

Mr. HANCOCK of New York. Mr. Speaker, I object to the vote on the ground that there is no quorum present, and I make the point of order that there is no quorum present.

The SPEAKER pro tempore. The Chair will count. (After counting.) Evidently there is not a quorum present. The call is automatic. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The question was taken; and there were—yeas 116, nays 133, not voting 178, as follows:

[Roll No. 79]

YEAS—116

Allen, Ill.	Bacon	Brewster	Clason
Amlie	Barton	Buckler, Minn.	Cluett
Anderson, Mo.	Biermann	Cannon, Mo.	Cochran
Andrews	Binderup	Carter	Collins
Arends	Boehne	Casey, Mass.	Colmer
Arnold	Boileau	Church	Cooper
Ashbrook	Boyer	Citron	Costello

Crawford	Holmes	Massingale	Rogers, Mass.
Dondero	Hope	May	Sauthoff
Dowell	Hull	Meeks	Schaefer, Ill.
Doxey	Imhoff	Michener	Schuetz
Elliott	Jenkins, Ohio	Mitchell, Tenn.	Seger
Engel	Johnson, Luther A.	Mott	Shanley
Ferguson	Johnson, Lyndon	Mouton	Smith, Maine
Fitzgerald	Jones	Murdock, Utah	South
Flaherty	Kitchens	Nelson	Stefan
Fletcher	Kniffin	O'Brien, Mich.	Taber
Ford, Miss.	Knutson	Oliver	Thom
Fuller	Lambertson	Parsons	Tinkham
Gamble, N. Y.	Larrabee	Pearson	Treadway
Gearhart	Lord	Pierce	Vincent, Ky.
Gehrmann	Lucas	Poage	Warren
Gilchrist	Ludlow	Polk	Whittington
Gray, Ind.	McFarlane	Powers	Wigglesworth
Greever	McLean	Reed, N. Y.	Wolcott
Gregory	Mahon, Tex.	Rees, Kans.	Wolverton
Gwynne	Mapes	Rigney	Woodruff
Hancock, N. Y.	Martin, Mass.	Robsion, Ky.	Woodrum
Hill	Mason	Rockefeller	Zimmerman

NAYS—133

Aleshire	Fernandez	Lanzetta	Reece, Tenn.
Allen, Del.	Forand	Leavy	Reed, Ill.
Barry	Frey, Pa.	Lesinski	Robertson
Beiter	Fries, Ill.	Lewis, Colo.	Romjue
Bernard	Fulmer	Luecke, Mich.	Sadowski
Bigelow	Gambrill, Md.	McAndrews	Sanders
Bland	Garrett	McCormack	Scott
Bloom	Goldsborough	McGehee	Scrugham
Boykin	Green	McGrath	Secrest
Brooks	Greenwood	McKeough	Sheppard
Brown	Griffith	McLaughlin	Smith, Conn.
Byrne	Guyer	Maas	Smith, Va.
Caldwell	Hamilton	Magnuson	Smith, W. Va.
Carlson	Harlan	Mahon, S. C.	Somers, N. Y.
Cartwright	Harrington	Martin, Colo.	Sparkman
Case, S. Dak.	Havenner	Maverick	Spence
Clark, N. C.	Hobbs	Mead	Starnes
Coffee, Wash.	Honeyman	Mills	Sumners, Tex.
Connery	Hook	Murdock, Ariz.	Sutphin
Cravens	Houston	Norton	Terry
Crosser	Hunter	O'Connell, Mont.	Thomas, N. J.
Crowe	Izac	O'Connor, N. Y.	Thomas, Tex.
Dickstein	Jacobsen	O'Leary	Thomason, Tex.
Dies	Jarman	O'Toole	Thompson, Ill.
Dingell	Jenckes, Ind.	Owen	Tolan
Dirksen	Johnson, Minn.	Patrick	Towey
Disney	Johnson, Okla.	Patterson	Transue
Ditter	Kee	Patton	Turner
Dixon	Kelly, Ill.	Peterson, Fla.	Umstead
Dockweiler	Kennedy, Md.	Peterson, Ga.	Voorhis
Driver	Kocialkowski	Plumley	Williams
Edmiston	Kvale	Rabaut	
Eicher	Lambeth	Ramspeck	
Evans	Lanham	Rayburn	

NOT VOTING—178

Allen, La.	Drew, Pa.	Kopplemann	Ryan
Allen, Pa.	Drewry, Va.	Kramer	Sabath
Andresen, Minn.	Duncan	Lamneck	Sacks
Atkinson	Dunn	Lea	Satterfield
Barden	Eaton	Lemke	Schneider, Wis.
Bates	Eberharter	Lewis, Md.	Schulte
Beam	Eckert	Long	Shafer, Mich.
Bell	Englebright	Luce	Shannon
Boland, Pa.	Faddis	Luckey, Nebr.	Short
Boren	Farley	McClellan	Simpson
Boylan, N. Y.	Fish	McGranery	Sirovich
Bradley	Fitzpatrick	McGroarty	Smith, Okla.
Buck	Flannagan	McMillan	Smith, Wash.
Buckley, N. Y.	Flannery	McReynolds	Snell
Bulwinkle	Fleger	McSweeney	Snyder, Pa.
Burch	Ford, Calif.	Maloney	Stack
Burdick	Gasque	Mansfield	Steagall
Cannon, Wis.	Gavagan	Merritt	Sullivan
Celler	Gifford	Mitchell, Ill.	Sweeney
Champion	Gildea	Moser, Pa.	Swope
Chandler	Gingery	Mosier, Ohio	Tarver
Chapman	Gray, Pa.	Nichols	Taylor, Colo.
Clark, Idaho	Griswold	O'Brien, Ill.	Taylor, S. C.
Claypool	Haines	O'Connell, R. I.	Taylor, Tenn.
Coffee, Nebr.	Halleck	O'Connor, Mont.	Teigan
Cole, Md.	Hancock, N. C.	O'Day	Thurston
Cole, N. Y.	Hart	O'Malley	Tobey
Cooley	Harter	O'Neal, Ky.	Vinson, Ga.
Cox	Hartley	O'Neill, N. J.	Wadsworth
Creal	Healey	Pace	Wallgren
Crosby	Hendricks	Palmisano	Walter
Crowther	Hennings	Patman	Wearin
Culkin	Hildebrandt	Pettengill	Weaver
Cullen	Hoffman	Pfeifer	Welch
Cummings	Jarrett	Phillips	Wene
Curley	Jenks, N. H.	Quinn	West
Daly	Johnson, W. Va.	Ramsay	Whelchel
Deen	Keller	Randolph	White, Idaho
Delaney	Kelly, N. Y.	Rankin	White, Ohio
Dempsey	Kennedy, N. Y.	Reilly	Wilcox
DeMuth	Keogh	Rich	Withrow
DeRouen	Kerr	Richards	Wolfenden
Dorsey	Kinzer	Robinson, Utah	Wood
Doughton	Kirwan	Rogers, Okla.	
Douglas	Kleberg	Rutherford	

So the amendment was rejected.

The Clerk announced the following additional pairs:

Until further notice:

Mr. Boland of Pennsylvania with Mr. Luce.
Mr. Kerr with Mr. Short.
Mr. Deen with Mr. Crowther.
Mr. Satterfield with Mr. Kinzer.
Mr. Rankin with Mr. Eaton.
Mr. Gasque with Mr. White of Ohio.
Mr. Cooley with Mr. Welch.
Mr. Vinson of Georgia with Mr. Cole of New York.
Mr. Cox with Mr. Rich.
Mr. Patman with Mr. Andresen of Minnesota.
Mr. Nichols with Mr. Halleck.
Mr. Atkinson with Mr. Taylor of Tennessee.
Mr. Dempsey with Mr. Jarrett.
Mr. Allen of Louisiana with Mr. Shafer of Michigan.
Mr. Celler with Mr. Burdick.
Mr. Fitzpatrick with Mr. Pace.
Mr. Barden with Mr. Haines.
Mr. O'Malley with Mr. Swope.
Mr. Coffee of Nebraska with Mr. Palmisano.
Mr. Hendricks with Mr. Sachs.
Mr. Cummings with Mr. Kelly of New York.
Mr. Farley with Mr. O'Neill of New Jersey.
Mr. Chandler with Mr. Keller.
Mr. Hart with Mr. Robinson of Utah.
Mr. O'Brien of Illinois with Mr. Fleger.
Mr. McSweeney with Mr. Johnson of West Virginia.
Mr. O'Connell of Rhode Island with Mr. Wilcox.
Mr. Ford of California with Mr. Champion.

Mr. COLLINS, Mr. MOTT, and Mr. FULLER changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

EXTENSION OF REMARKS

Mr. BEITER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein a statement made before the Senate Committee on Appropriations this afternoon.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

OMNIBUS PRIVATE CLAIMS BILL

The Clerk read as follows:

Title VII—(H. R. 3115. For the relief of the Sachs Mercantile Co., Inc.)

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the Sachs Mercantile Co., Inc., out of any money in the Treasury not otherwise appropriated, the sum of $145,612.17 to reimburse said corporation for losses incurred by it by reason of the purchase from the Navy Department, at a sale by auction at the Navy Supply Depot at Brooklyn, N. Y., on October 15, 1924, of 360,494 pairs of white navy trousers, as set forth in the special findings of fact, conclusions of law, and opinion of the Court of Claims of February 5, 1934: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with the said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 8, lines 16 and 17, strike out "$145,612.17 to reimburse said corporation" and insert in lieu thereof "$68,073.47, in full settlement of all claims against the United States."

The amendment was agreed to.

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

The Clerk read as follows:

Amendment offered by Mr. COSTELLO: On page 8, beginning in line 10, strike out all of title VII.

Mr. COSTELLO. Mr. Speaker, the pending bill would pay to the Sachs Mercantile Co. the sum of $68,073.47.

The company alleges that it sustained losses when it purchased from the Navy Department at auction surplus trousers of the Navy, white trousers. As every Member here well knows, we have had any number of claims of a similar character where purchasers have bought Government materials at auction and frequently have failed to examine the materials they were about to purchase. In every catalog the War Department or Navy Department issues is definitely set forth

the statement that the buyer must take the goods as is and it is without recourse. Furthermore, full opportunity is offered for actual physical inspection of the material listed for 1 week prior to the date of sale. Failure on the part of any purchaser to inspect the material will not constitute grounds for any claim for adjustment or recision of contract. These provisions were contained in the catalog listing these Navy trousers. Sachs Mercantile Corporation sent their agent to the warehouse. The officer in charge did not want to be bothered opening up these big boxes containing three-hundred-and-sixty-thousand-odd pairs of trousers. As a result they looked at one pair and presumed that everything in the boxes was identical.

After the Sachs Mercantile Co. had purchased the goods and attempted to resell them they found amongst the 360,000 approximately 20,000 pairs that were worthless, that were not fit for public sale.

One of the representatives of the company appeared before the Committee on Claims, and at that time I asked him a question which I think is very proper in this connection. I asked him if these boxes by accident instead of containing some worthless Navy trousers had contained silk trousers, would the Sachs Mercantile Co. be coming back to Congress asking the Government to accept the excess profits they had derived from the sale of the silk trousers they had purchased when they thought they were buying white Navy duck trousers? The gentleman was quite indignant that I should raise such a question, and yet I think it is the fundamental basis of this whole situation. Every time a bidder at auction does not get an excess profit from the goods that he sells which he has purchased at auction, he comes before Congress and asks Congress to give him redress. That same man, however, if he makes a profit above the amount he expected to receive, does not come to the Government and say, "I expected to make $10,000 profit but I made $15,000; here is the extra $5,000."

I do not believe this claim should be allowed, because the claimant failed of his own accord to examine the material before he purchased it. Now he comes to Congress and asks us to pay him $68,000 because that is the amount he lost on this transaction. We are no more justified in paying this claim than we are in dozens of others, and we have had any number of them presented to us during this session of Congress.

Mr. HANCOCK of New York. Mr. Speaker, will the gentleman yield?

Mr. COSTELLO. I yield.

Mr. HANCOCK of New York. I refer the gentleman to the fact that the claimant went to the Court of Claims and the Court of Claims after full hearings found against them.

Mr. COSTELLO. I am glad the gentleman mentioned that because the Sachs Mercantile Co. was authorized back, I believe, in the Seventieth Congress to go before the Court of Claims. The Court of Claims found that it had no legal or moral remedy as far as the court was concerned.

Mr. O'CONNOR of New York. Mr. Speaker, will the gentleman yield?

Mr. COSTELLO. I yield.

Mr. O'CONNOR of New York. As I understand it they were permitted only to go into the Court of Claims to ascertain the amount of the damages.

Of course, the Court of Claims said they had no legal right, that it was just a question of a moral obligation on Congress. You will find that language used. One of the persistent fallacies in connection with all these bills, and I have seen it in veto messages, too, is the statement that the claimant has no legal right. If he had a legal right, he would not have to come to Congress. It is only because he has a moral right that he comes here. If he had a legal right, he could go into the Court of Claims.

The Court of Claims found that they suffered this damage but they had no legal right to sue and that they should come back to Congress and have a bill passed on this moral obligation that the Congress owes them.

Mr. COSTELLO. The court did find that the claimant suffered this amount of loss, and also they were not entitled to recover anything because of the loss.

Mr. O'CONNOR of New York. That is why they are here, because they had no legal right.

[Here the gavel fell.]

Mr. SOMERS of New York. Mr. Speaker, I rise in opposition to the amendment.

Mr. KENNEDY of Maryland. Will the gentleman yield?

Mr. SOMERS of New York. I yield to the gentleman from Maryland.

Mr. KENNEDY of Maryland. I would like to read what the court said in this matter:

Plaintiff sustained a grievous loss growing out of this transaction.

And they fixed the amount at the amount provided in the bill. The only remedy they have is by the bill now before the Congress.

Mr. COSTELLO. Will the gentleman yield?

Mr. SOMERS of New York. I yield to the gentleman from California.

Mr. COSTELLO. The court also said that the Government in no way breached the terms and conditions of the sale as set forth in the catalog.

Mr. SOMERS of New York. Mr. Speaker, the principal objection to this bill has been answered by my able colleague from New York. I shall not discuss that phase of the situation, but there is something here I want to discuss this afternoon. Were the facts exactly as stated, I think I would oppose this measure. However, there are other facts that appear to be of some importance that were not related here.

To begin with, it has been stated that the Sachs Mercantile Co. did not care to inspect the goods that were offered for sale, which is not strictly true. They went to inspect these goods. They asked to have the cases opened, and the Government refused to open the cases except a few that happened to be opened before these people went there. Mr. Speaker, the contention I make in connection with this bill is predicated upon the following propositions: We are the board of directors of the United States and therefore we are charged with the responsibility of maintaining the integrity of every department's business ethics. In a very few seconds by a visual demonstration I can show you the conception that some of these departments have of business ethics. Bear these facts in mind. An auctioneer stands up and he says, "Gentlemen, I have a lot of goods here for sale. I hold up a representative article," and in his hand he holds up a pair of pants in good condition. The sale is made on that representation. The article that is held before these bidders is an article in good condition. Mr. Speaker, this is what is received, pants of that quality, stained this way. They are all supposed to be usable goods or surplus goods.

What does the term "surplus goods" mean? Every merchandise man knows that surplus goods are goods that are ready for distribution, provided there is a demand. Where surplus exists the demand is nonexistent. Surplus goods do not mean damaged goods. Obviously these were damaged goods.

Are we going to permit the United States Government to auction off pants of this quality and demand from the citizen honest dollars in payment? Maybe there is no claim here, but never in my 14 years' experience in this House have I seen a claim of such meritorious character.

Mr. REES of Kansas. Will the gentleman yield?

Mr. SOMERS of New York. I yield to the gentleman from Kansas.

Mr. REES of Kansas. Does the gentleman maintain that all of the merchandise was similar to the sample he now has in his hand?

Mr. SOMERS of New York. Ninety percent of the goods could not be sold.

Mr. REES of Kansas. The gentleman does not maintain that all of the merchandise looked like that?

Mr. SOMERS of New York. The court determined that the actual loss to these people was $68,000, and that is what we are asking for.

Mr. REES of Kansas. The gentleman has not answered the question. He does not maintain that all of the merchandise was similar to the sample lying on the table over there?

Mr. SOMERS of New York. This represented 90 percent of the merchandise.

Mr. COSTELLO. Will the gentleman yield?

Mr. SOMERS of New York. I yield to the gentleman from California.

Mr. COSTELLO. Is it not a fact that they actually sold $231,000 worth of this material?

Mr. SOMERS of New York. They sold what they could at junk prices and sustained a loss of $68,000 on the misrepresentation of the United States Government, and it ill behooves this body to justify that.

Mr. COSTELLO. The total bid was $299,210.02. The amount they received from the sales was $231,000. It is my understanding that out of the total number of trousers purchased 20,000 pairs were similar to these here and that actually 360,000 pairs were sold.

Mr. SOMERS of New York. The Court of Claims settled that by proper order. They determined that $68,000 had been actually lost and that is what we are asking.

Mr. REES of Kansas. How old is that merchandise?

Mr. SOMERS of New York. This transaction was had in 1924.

[Here the gavel fell.]

The SPEAKER pro tempore (Mr. COOPER). The question is on the amendment offered by the gentleman from California [Mr. COSTELLO].

The question was taken; and on a division (demanded by Mr. SOMERS of New York) there were—ayes 67, noes 31.

Mr. SOMERS of New York. Mr. Speaker, I object to the vote on the ground there is not a quorum present.

The SPEAKER pro tempore. Obviously a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 144, nays 95, not voting 188, as follows:

[Roll No. 80]

YEAS—144

Aleshire	Eicher	Kitchens	Ramspeck
Allen, Ill.	Elliott	Kniffin	Reed, Ill.
Allen, La.	Engel	Lambertson	Reed, N. Y.
Anderson, Mo.	Ferguson	Lambeth	Rees, Kans.
Arends	Fitzgerald	Lanham	Rigney
Ashbrook	Fletcher	Lewis, Colo.	Robertson
Bacon	Ford, Miss.	Lord	Rockefeller
Biermann	Frey, Pa.	Luce	Rogers, Mass.
Binderup	Fulmer	Luckey, Nebr.	Romjue
Boehne	Gamble, N. Y.	Ludlow	Scott
Boyer	Garrett	Luecke, Mich.	Seger
Brewster	Gilchrist	McFarlane	Shafer, Mich.
Brown	Gray, Ind.	McKeough	Smith, Conn.
Buckler, Minn.	Greenwood	Mahon, S. C.	Smith, Va.
Cannon, Mo.	Greever	Mahon, Tex.	Smith, W. Va.
Carlson	Gregory	Mapes	South
Case, S. Dak.	Guyer	Martin, Mass.	Sparkman
Church	Gwynne	Mason	Spence
Citron	Hancock, N. Y.	Massingale	Starnes
Clason	Harlan	Meeks	Stefan
Cochran	Harrington	Michener	Taber
Collins	Healey	Mills	Terry
Colmer	Hill	Mitchell, Tenn.	Thom
Connery	Hobbs	Mott	Thomas, Tex.
Cooley	Holmes	Murdock, Ariz.	Thomason, Tex.
Cooper	Honeyman	Nelson	Transue
Costello	Hook	Oliver	Treadway
Crawford	Hope	Pace	Turner
Crosser	Houston	Patman	Umstead
DeRouen	Imhoff	Patrick	Vincent, Ky.
Dies	Jenckes, Ind.	Patterson	Wigglesworth
Dirksen	Johnson, Luther A.	Pearson	Williams
Dixon	Johnson, Lyndon	Peterson, Ga.	Wolcott
Dondero	Jones	Pierce	Wolverton
Dowell	Kee	Polk	Woodruff
Doxey	Kelly, Ill.	Rabaut	Zimmerman

NAYS—95

Allen, Del.	Bernard	Cartwright	Dickstein
Amlie	Bigelow	Casey, Mass.	Dingell
Andresen, Minn.	Bland	Clark, N. C.	Disney
Andrews	Bloom	Coffee, Wash.	Dockweiler
Arnold	Boileau	Cravens	Edmiston
Atkinson	Boykin	Crowe	Evans
Barden	Brooks	Cummings	Fernandez
Flaherty	Kennedy, Md.	Mouton	Satterfield
Forand	Kocialkowski	Murdock, Utah	Sauthoff
Fries, Ill.	Kvale	Nichols	Schaefer, Ill.
Fuller	Lanzetta	O'Connell, Mont.	Scrugham
Gambrill, Md.	Leavy	O'Connor, N. Y.	Secrest
Gasque	Lesinski	O'Leary	Shanley
Gavagan	Lucas	O'Toole	Sheppard
Gehrmann	McAndrews	Owen	Sirovich
Goldsborough	McCormack	Parsons	Somers, N. Y.
Griffith	McGehee	Patton	Sutphin
Hamilton	McLaughlin	Peterson, Fla.	Teigan
Havenner	Maas	Poage	Tinkham
Hull	Magnuson	Randolph	Tolan
Hunter	Martin, Colo.	Rayburn	Vinson, Ga.
Izac	Maverick	Reece, Tenn.	Voorhis
Jarman	Mead	Sadowski	Whittington
Johnson, Minn.	Merritt	Sanders	

NOT VOTING—188

Allen, Pa.	Drewry, Va.	Knutson	Rutherford
Barry	Driver	Kopplemann	Ryan
Barton	Duncan	Kramer	Sabath
Bates	Dunn	Lamneck	Sacks
Beam	Eaton	Larrabee	Schneider, Wis.
Beiter	Eberharter	Lea	Schuetz
Bell	Eckert	Lemke	Schulte
Boland, Pa.	Englebright	Lewis, Md.	Shannon
Boren	Faddis	Long	Short
Boylan, N. Y.	Farley	McClellan	Simpson
Bradley	Fish	McGranery	Smith, Maine
Buck	Fitzpatrick	McGrath	Smith, Okla.
Buckley, N. Y.	Flannagan	McGroarty	Smith, Wash.
Bulwinkle	Flannery	McLean	Snell
Burch	Fleger	McMillan	Snyder, Pa.
Burdick	Ford, Calif.	McReynolds	Stack
Byrne	Gearhart	McSweeney	Steagall
Caldwell	Gifford	Maloney	Sullivan
Cannon, Wis.	Gildea	Mansfield	Sumners, Tex.
Carter	Gingery	May	Sweeney
Celler	Gray, Pa.	Mitchell, Ill.	Swope
Champion	Green	Moser, Pa.	Tarver
Chandler	Griswold	Mosier, Ohio	Taylor, Colo.
Chapman	Haines	Norton	Taylor, S. C.
Clark, Idaho	Halleck	O'Brien, Ill.	Taylor, Tenn.
Claypool	Hancock, N. C.	O'Brien, Mich.	Thomas, N. J.
Cluett	Hart	O'Connell, R. I.	Thompson, Ill.
Coffee, Nebr.	Harter	O'Connor, Mont.	Thurston
Cole, Md.	Hartley	O'Day	Tobey
Cole, N. Y.	Hendricks	O'Malley	Towey
Cox	Hennings	O'Neal, Ky.	Wadsworth
Creal	Hildebrandt	O'Neill, N. J.	Wallgren
Crosby	Hoffman	Palmisano	Walter
Crowther	Jacobsen	Pettengill	Warren
Culkin	Jarrett	Pfeifer	Wearin
Cullen	Jenkins, Ohio	Phillips	Weaver
Curley	Jenks, N. H.	Plumley	Welch
Daly	Johnson, Okla.	Powers	Wene
Deen	Johnson, W. Va.	Quinn	West
Delaney	Keller	Ramsay	Whelchel
Dempsey	Kelly, N. Y.	Rankin	White, Idaho
DeMuth	Kennedy, N. Y.	Reilly	White, Ohio
Ditter	Keogh	Rich	Wilcox
Dorsey	Kerr	Richards	Withrow
Doughton	Kinzer	Robinson, Utah	Wolfenden
Douglas	Kirwan	Robsion, Ky.	Wood
Drew, Pa.	Kleberg	Rogers, Okla.	Woodrum

So the amendment was agreed to.

The Clerk announced the following pairs:

Additional general pairs:

Mr. Woodrum with Mr. Snell.
Mr. Warren with Mr. Robinson of Kentucky.
Mr. Rankin with Mr. Eaton.
Mr. Driver with Mr. Jenkins of Ohio.
Mr. Beiter with Mr. Plumley.
Mr. Larrabee with Mr. Knutson.
Mr. Schuetz with Mr. Barton.
Mrs. Norton with Mr. Thomas of New Jersey.
Mr. Thompson of Illinois with Mr. Powers.
Mr. Barry with Mr. Cluett.
Mr. Green with Mr. McLean.
Mr. Towey with Mr. Carter.
Mr. May with Mr. Smith of Maine.
Mr. Caldwell with Mr. Gearhart.
Mr. Rogers of Oklahoma with Mr. Taylor of Tennessee.
Mr. Johnson of Oklahoma with Mr. Ditter.
Mr. Jacobsen with Mr. Byrne.

Mr. GUYER changed his vote from "nay" to "yea."

Mr. CASEY of Massachusetts changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

Mr. KENNEDY of Maryland. Mr. Speaker, it will be impossible to finish this omnibus bill tonight on account of the number of titles remaining in the bill. I have been promised by the majority leader that he will try to arrange to give us time at some future date.

Therefore, Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore (Mr. COOPER). Will the gentleman withhold his motion so Members may submit unanimous-consent requests?

Mr. KENNEDY of Maryland. I withhold the motion, Mr. Speaker.

COMMITTEE ON THE JUDICIARY

Mr. SUMNERS of Texas. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to sit this week during the sessions of the House.

Mr. MARTIN of Massachusetts. Reserving the right to object, Mr. Speaker, has the gentleman taken this up with the Republican members of the committee?

Mr. SUMNERS of Texas. No, I have not.

Mr. MARTIN of Massachusetts. Then I must object, Mr. Speaker.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. GRAY of Indiana, for 1 day, on account of official business.

EXTENSION OF REMARKS

Mr. ELLIOTT and Mr. BINDERUP asked and were given permission to extend their own remarks in the RECORD.

Mr. CITRON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include therein a letter I received today from Secretary Wallace.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. VOORHIS. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include therein an article by Prof. Eric Beecroft, of the University of California, at Los Angeles.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. JOHNSON of Minnesota. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the bill H. R. 10291, now in conference.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. CARTWRIGHT. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein a brief statement by the gentleman from Maryland [Mr. GOLDSBOROUGH] with regard to Senator Owen, of Oklahoma.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3699. An act authorizing the Library of Congress to acquire by purchase, or otherwise, the whole, or any part, of the papers of Charles Cotesworth Pinckney and Thomas Pinckney, including therewith a group of documents relating to the Constitutional Convention of 1787, now in the possession of Harry Stone, of New York City; to the Committee on the Library.

ADJOURNMENT

The SPEAKER pro tempore. The gentleman from Maryland moves that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 17 minutes p. m.) the House adjourned until tomorrow, Wednesday, May 18, 1938, at 12 o'clock noon.

COMMITTEE HEARINGS

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

There will be a meeting of Mr. SADOWSKI's subcommittee of the Committee on Interstate and Foreign Commerce at 10 a. m. Wednesday, May 18, 1938, for the consideration of H. R. 9739, to amend the Motor Carrier Act.

COMMITTEE ON NAVAL AFFAIRS

There will be a full open hearing before the Committee on Naval Affairs Wednesday, May 18, 1938, at 10:30 a. m., for the consideration of H. R. 10594, Naval and Marine Corps Reserve.

COMMITTEE ON IMMIGRATION AND NATURALIZATION

The Committee on Immigration and Naturalization will hold public hearings Wednesday, May 18, 1938, at 10:30 a. m., in room 445, House Office Building, for the consideration of H. R. 9907, and other unfinished business.

COMMITTEE ON THE JUDICIARY

There will be a hearing held before the Committee on the Judiciary, Wednesday, May 18, and Thursday, May 19, 1938, on the resolutions proposing to amend the Constitution of the United States to provide suffrage for the people of the District of Columbia. The hearing will be held in the caucus room of the House Office Building beginning at 10 a. m. on the days mentioned.

COMMITTEE ON THE CENSUS

There will be a hearing of the Committee on the Census on Wednesday, May 18, 1938, at 10:30 a. m., on the bill S. 3882.

COMMITTEE ON INSULAR AFFAIRS

There will be a meeting of the Committee on Insular Affairs on Thursday, May 19, 1938, at 10:30 a. m., for the consideration of H. R. 10050 and 10652.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1342. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the legislative establishment, Library of Congress, for the fiscal year 1938 in the sum of $17,000 (H. Doc. No. 645); to the Committee on Appropriations and ordered to be printed.

1343. A communication from the President of the United States, transmitting supplemental estimates of appropriations for the fiscal years 1938 and 1939 amounting to $20,500 for the Department of State (H. Doc. No. 647); to the Com-Committee on Appropriations and ordered to be printed.

1344. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the Commodity Credit Corporation for the fiscal year 1939, amounting to $220,000 (H. Doc. No. 648); to the Committee on Appropriations, and ordered to be printed.

1345. A letter from the Acting Secretary of the Interior, transmitting two resolutions passed by the Municipal Council of the Municipality of St. Croix, Virgin Islands, at an extraordinary meeting held Thursday, April 28, 1938; to the Committee on Insular Affairs.

1346. A letter from the Secretary of Commerce, transmitting the draft of a proposed bill to authorize the construction of certain vessels for the Coast and Geodetic Survey, Department of Commerce, and for other purposes; to the Committee on Merchant Marine and Fisheries.

1347. A letter from the Archivist of the United States, transmitting lists of papers, consisting of 3,543 items, among the archives and records of the Department of the Navy which the Department has recommended should be destroyed or otherwise disposed of; to the Committee on the Disposition of Executive Papers.

1348. A letter from the chairman, the Textile Foundation, transmitting the Annual Report of the Textile Foundation for the fiscal year ending December 31, 1937; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. BLAND: Committee on Merchant Marine and Fisheries. House Joint Resolution 685. Joint resolution to pro-

vide for temporary operation by the United States of certain steamships, and for other purposes; with amendment (Rept. No. 2362). Referred to the Committee of the Whole House on the state of the Union.

Mr. GREEVER: Committee on the Public Lands. S. 3416. An act providing for the addition of certain lands to the Black Hills National Forest in the State of Wyoming; without amendment (Rept. No. 2363). Referred to the Committee of the Whole House on the state of the Union.

Mr. CHURCH: Committee on Naval Affairs. S. 1532. An act to exempt retired officers of the Marine Corps and Coast Guard from certain restrictions with respect to holding office under the United States; without amendment (Rept. No. 2364). Referred to the Committee of the Whole House on the state of the Union.

Mr. KNIFFIN: Committee on Naval Affairs. S. 2409. A bill for the relief of certain officers of the United States Navy and the United States Marine Corps; without amendment (Rept. No. 2365). Referred to the Committee of the Whole House on the state of the Union.

Mr. MAAS: Committee on Naval Affairs. H. R. 6900. A bill for employment of honorary retired officers; with amendment (Rept. No. 2366). Referred to the Committee of the Whole House on the state of the Union.

Mr. KNIFFIN: Committee on Naval Affairs. H. R. 7276. A bill to increase the number of midshipmen allowed at the United States Naval Academy appointed at large; without amendment (Rept. No. 2367). Referred to the Committee of the Whole House on the state of the Union.

Mr. BATES: Committee on Naval Affairs. H. R. 7520. A bill for the relief of sailors who were discharged from the Navy during the Spanish-American War, the Philippine Insurrection, and the Boxer uprising because of minority or misrepresentation of age; with amendment (Rept. No. 2368). Referred to the Committee of the Whole House on the state of the Union.

Mr. LUCAS: Committee on Agriculture. H. R. 9661. A bill to allow possession of migratory game birds lawfully taken; with amendment (Rept. No. 2369). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. MAAS: Committee on Naval Affairs. S. 2985. An act for the relief of John F. Fahey, United States Marine Corps, retired; without amendment (Rept. No. 2370). Referred to the Committee of the Whole House.

Mr. KNIFFIN: Committee on Naval Affairs. S. 3040. An act for the relief of Herman F. Krafft; without amendment (Rept. No. 2371). Referred to the Committee of the Whole House.

Mr. KNIFFIN: Committee on Naval Affairs. H. R. 7167. A bill to provide for the promotion on the retired list of the Navy of Fred G. Leith; with amendment (Rept. No. 2372). Referred to the Committee of the Whole House.

Mr. McGRATH: Committee on Naval Affairs. H. R. 8571. A bill granting 6 months' pay to Mrs. Vallie M. Current; with amendment (Rept. No. 2373). Referred to the Committee of the Whole House.

CHANGE OF REFERENCE

Under clause 2 of rule XXII, the Committee on World War Veterans' Legislation was discharged from the consideration of the bill (H. R. 10095) to place Herbert R. Crandall on the emergency officers' list, and the same was referred to the Committee on Military Affairs.

PUBLIC BILLS AND RESOLUTIONS

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

By Mr. BUCKLER of Minnesota: A bill (H. R. 10661) to authorize a preliminary examination and survey of Red Lake River and its tributaries in the State of Minnesota for flood control, for run-off and water-flow retardation, and for soil-erosion prevention; to the Committee on Flood Control.

By Mr. WILLIAMS: A bill (H. R. 10662) to provide for the construction and equipment of a building for the experiment station of the Bureau of Mines at Rolla, Mo.; to the Committee on Mines and Mining.

By Mr. STEAGALL: A bill (H. R. 10663) to amend the United States Housing Act of 1937; to the Committee on Banking and Currency.

By Mr. LEMKE: A bill (H. R. 10664) to authorize a preliminary examination and survey of the Pembina River and its tributaries in the State of North Dakota for flood control, for run-off and water-flow retardation, and for soil-erosion prevention; to the Committee on Flood Control.

By Mr. MOTT: A bill (H. R. 10665) to provide for the manufacture and fortification of prune wines, plum wines, and pear wines, and for other purposes; to the Committee on Ways and Means.

By Mr. TERRY: A bill (H. R. 10666) to facilitate control of soil erosion and flood damage on lands within the Ozark and Ouachita National Forests in Arkansas; to the Committee on Agriculture.

By Mr. BOYKIN: A bill (H. R. 10667) for the care and maintenance of "Confederate Rest" Cemetery, Mobile, Ala.; to the Committee on Military Affairs.

By Mr. CARTWRIGHT: A bill (H. R. 10668) to reimburse the Eastern and Western Cherokees for funds erroneously charged against them, and for other purposes; to the Committee on Indian Affairs.

By Mr. CASEY of Massachusetts: A bill (H. R. 10669) to amend the Liquor Tax Administration Act, approved June 26, 1936; to the Committee on Ways and Means.

By Mr. GREENWOOD: A bill (H. R. 10670) to extend times for commencing and completing the construction of a bridge across the Wabash River at or near Merom, Sullivan County, Ind.; to the Committee on Interstate and Foreign Commerce.

By Mr. TAYLOR of Tennessee: A bill (H. R. 10671) to provide for the establishment of minimum labor standards in employment in and affecting interstate commerce, and for other purposes; to the Committee on Labor.

By Mr. BLAND: A bill (H. R. 10672) to amend section 4197 of the Revised Statutes, as amended (U. S. C., 1934 ed., title 46, sec. 91), and section 4200 of the Revised Statutes (U. S. C., 1934 ed., title 46, sec. 92), and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mrs. JENCKES of Indiana: A bill (H. R. 10673) to exempt the property of the Young Women's Christian Association in the District of Columbia from national and municipal taxation; to the Committee on the District of Columbia.

By Mr. HEALEY: A bill (H. R. 10674) to recognize certain Marine Corps service for the purposes of the civil-service and veterans' laws; to the Committee on the Civil Service.

Also, a bill (H. R. 10675) to increase the pay strength of the United States Marine Corps and of the Marine Corps Reserve; to the Committee on Naval Affairs.

By Mr. RANDOLPH: A bill (H. R. 10676) to amend an act entitled "An act to classify officers and members of the fire department of the District of Columbia, and for other purposes"; to the Committee on the District of Columbia.

By Mr. WHITE of Idaho (by request): Resolution (H. Res. 501) calling for investigation of report as to illegal cutting of valuable timber on certain lands owned by the United States in the western part of the State of Washington; to the Committee on Rules.

By Mr. LEMKE: Resolution (H. Res. 502) directing the Interstate Commerce Commission to investigate the practicability of the plan to postalize passenger transportation; to the Committee on Interstate and Foreign Commerce.

By Mr. HOOK: Joint resolution (H. J. Res. 691) to authorize the Secretary of War to lend War Department equipment for use at the 1938 State convention of the American Legion, Department of Michigan, to be held at Calumet, Mich., on July 29, 30, and 31, 1938; to the Committee on Military Affairs.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. COFFEE of Washington: A bill (H. R. 10677) granting a pension to Zetta F. Tidwell; to the Committee on Pensions.

By Mr. LYNDON B. JOHNSON: A bill (H. R. 10678) for the relief of James McConnachie; to the Committee on Claims.

By Mr. MARTIN of Massachusetts: A bill (H. R. 10679) for the relief of Manuel G. Baptista; to the Committee on Claims.

By Mr. MURDOCK of Arizona: A bill (H. R. 10680) granting an increase of pension to Winnie Alexander; to the Committee on Invalid Pensions.

By Mr. MURDOCK of Utah: A bill (H. R. 10681) granting a pension to J. H. Mathews; to the Committee on Pensions.

By Mr. O'MALLEY: A bill (H. R. 10682) for the relief of Andrew F. Scheible; to the Committee on Claims.

By Mr. SHEPPARD: A bill (H. R. 10683) to confer jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claims of Ben White, Arch Robinson, Lee Wells, W. S. Wells, A. J. McLaren, A. D. Barkelew, Oscar Clayton, R. L. Culpepper, W. B. Edwards, the estate of John McLaren, the estate of C. E. Wells, and the estate of Theodore Bowen; to the Committee on Claims.

By Mr. VINCENT of Kentucky: A bill (H. R. 10684) granting a pension to Della Adair; to the Committee on Invalid Pensions.

By Mr. WHELCHEL: A bill (H. R. 10685) awarding the Distinguished Service Medal to Capt. Edgar B. Dunlap, Infantry, Eighty-second Division; to the Committee on Military Affairs.

By Mr. WHITE of Idaho: A bill (H. R. 10686) authorizing the naturalization of Samuel F. Swayne; to the Committee on Immigration and Naturalization.

PETITIONS, ETC.

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

5152. By Mr. BATES: Petition of the General Court of Massachusetts memorializing Congress for the enactment of legislation, as proposed in House bill 4199, to promote the general welfare of the United States by alleviating the hazards and insecurity of old age; to the Committee on Ways and Means.

5153. By Mr. CARTER: Petition of the Board of Supervisors of the county of Alameda, State of California, praying for the enactment of House bill 4199, the general welfare bill, at this session of Congress, as a means of benefitting the entire Nation through the medium of aid to the aged; to the Committee on Ways and Means.

5154. By Mr. CURLEY: Petition of Local 13, Industrial Union of Marine and Shipbuilding Workers of America, urging enactment of the wage-hour bill; to the Committee on Labor.

5155. Also, petition of the United Photographic Employees Union, Local 415, urging enactment of the wage-hour bill; to the Committee on Labor.

5156. Also, petition of 3,000 citizens of New York City, members of Playthings and Novelties Local Industrial Union, No. 223, urging enactment of the wage-hour bill; to the Committee on Labor.

5157. Also, petition of 3,000 members of the New York Clothing Cutters Union, urging enactment of the wage-hour bill; to the Committee on Labor.

5158. Also, petition of 5,000 members of the Amalgamated Clothing Workers of America, Local 169, urging enactment of the wage-hour bill; to the Committee on Labor.

5159. By Mr. LUTHER A. JOHNSON: Petition of Pearle Burr, president of the Texas Library Association, favoring House bill 10340; to the Committee on Education.

5160. By Mr. LEAVY: Resolution adopted by the board of directors of the Green Bluff National Farm Loan Association and signed by the president, vice president, and directors thereof, urging the congressional delegation of our State to work for farm legislation that will bring to the farmer a reasonable return above the cost of production, to which he is justly entitled; and, further, that the farmer should be charged interest rates comparable to those paid by industry, such as the rate at present in effect on Federal land-bank loans, which rate should be continued permanently by act of Congress; to the Committee on Agriculture.

5161. By Mr. MAGNUSON: Proclamation by Hon. Clarence D. Martin, Governor of the State of Washington, appointing a commission to represent the State of Washington at the celebration of the three-hundredth anniversary of the first Swedish settlement in America; to the Committee on the Library.

5162. By Mr. PFEIFER: Petition of the Merchants Association of New York, urging enactment of the Barry bill (H. R. 2716), providing 2-cent rate of postage for Queens County; to the Committee on the Post Office and Post Roads.

5163. By the SPEAKER: Petition of the Young Democratic League of Colorado, petitioning consideration of their views on the existing monetary laws; to the Committee on Banking and Currency.

SENATE

WEDNESDAY, MAY 18, 1938

(Legislative day of Wednesday, April 20, 1938)

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

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Tuesday, May 17, 1938, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. LEWIS. I note the absence of a quorum, and with that suggestion I ask for a roll call.

The VICE PRESIDENT. The clerk will call the roll.

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

Adams	Davis	King	Pope
Andrews	Dieterich	La Follette	Radcliffe
Austin	Donahey	Lewis	Russell
Bailey	Duffy	Lodge	Schwartz
Bankhead	Ellender	Logan	Schwellenbach
Barkley	Frazier	Lonergan	Sheppard
Berry	George	Lundeen	Shipstead
Bilbo	Gerry	McAdoo	Smathers
Bone	Gibson	McCarran	Smith
Borah	Gillette	McGill	Thomas, Utah
Bridges	Glass	McKellar	Townsend
Brown, Mich.	Green	McNary	Truman
Bulkley	Hale	Maloney	Tydings
Bulow	Harrison	Miller	Vandenberg
Burke	Hatch	Minton	Van Nuys
Byrd	Hayden	Murray	Wagner
Byrnes	Herring	Neely	Walsh
Capper	Hill	Norris	Wheeler
Caraway	Hitchcock	O'Mahoney	White
Chavez	Hughes	Overton	
Clark	Johnson, Calif.	Pepper	
Copeland	Johnson, Colo.	Pittman	

Mr. LEWIS. I announce that the Senator from Arizona [Mr. ASHURST] and the Senator from Oregon [Mr. REAMES] are absent because of illness.

The Senator from Oklahoma [Mr. LEE] is absent because of illness in his family.

The Senator from New Hampshire [Mr. BROWN], the Senator from Texas [Mr. CONNALLY], the Senator from Pennsylvania [Mr. GUFFEY], the Senator from West Virginia [Mr. HOLT], the Senator from New Jersey [Mr. MILTON], the Senator from North Carolina [Mr. REYNOLDS], and the Senator from Oklahoma [Mr. THOMAS] are detained on important public business.

Mr. AUSTIN. I announce that the Senator from North Dakota [Mr. NYE] is necessarily absent from the Senate.

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