12380. By Mr. JOHNSON of Texas: Petition of National Wool Growers' Association, recommending 10-year program of predatory animal control, as recommended by the Secretary of Agriculture; to the Committee on Agriculture.

12381. Also, petition of R. H. Ames, president Amarillo Chapter Will H. Dilg League of America, of Amarillo, Tex., favoring a tariff on imported fishing tackle; to the Committee on Ways and Means.

12382. By Mr. LUCE: Petition of the City Council of the city of Boston, Mass., for the repeal of the so-called national origins clause of the immigration act; to the Committee on Immigration and Naturalization.

12383. By Mr. MAPES: Petition of Edward Raum and 41 other residents of Grand Rapids, Mich., against any change in the present tariff on hides and leather used in the manufacture of shoes; to the Committee on Ways and Means.

12384. By Mr. MORROW: Petition of Samuel Kenoi, Sam Chino, Martin Blake, and Henry Treas, commending House bill 17057, a bill granting a per capita allowance of $100 to members of the Mescalero Apache Tribe, New Mexico; to the Committee on Indian Affairs.

12385. Also, petition of Henry Meyer, L. C. Lynch, and other citizens of Chama, N. Mex., opposing House bill 78, compulsory Sunday observance for the District of Columbia; to the Committee on the District of Columbia.

12386. By Mr. O'CONNELL: Petition of the American Live Stock Association, Denver, Colo., urging a duty on livestock and fresh and preserved meats; to the Committee on Ways and Means.

12387. By Mr. RANSLEY: Petition of P. L. Bjornsgaard and other citizens of Philadelphia, Pa., urging that the present quota distribution based on the census of 1890 be retained; to the Committee on Immigration and Naturalization.

12388. By Mr. SANDERS of Texas: Petition of Walter Tynes and 34 others, in favor of the passage of the Johnson bill (H. R. 16084), authorizing an appropriation of $30,000 for the construction of the bridges at Porters Bluff and Akers Ferry, which were destroyed and removed by the Federal Government; to the Committee on Claims.

12389. By Mr. SELVIG: Petition of 13 residents of Ottertail County, in the ninth district, Minnesota, urging the enactment of House bill 10958; to the Committee on Agriculture.

12390. By Mr. SWING: Petition of residents of San Diego, Calif., and vicinity, protesting against compulsory Sunday observance bill (H. R. 78); to the Committee on the District of Columbia.

SENATE

SATURDAY, *February 23, 1929*

(Legislative day of Friday, February 22, 1929)

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

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

The VICE PRESIDENT. The clerk will call the roll.

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

Ashurst	Fess	McNary	Smith
Barkley	Frazier	Mayfield	Smoot
Bayard	Gerry	Metcalf	Steck
Bingham	Glass	Moses	Steiwer
Black	Glenn	Neely	Stephens
Blaine	Goff	Norbeck	Swanson
Blease	Gould	Norris	Thomas, Idaho
Borah	Greene	Nye	Thomas, Okla.
Bratton	Hale	Oddie	Trammell
Brookhart	Harris	Overman	Tydings
Broussard	Harrison	Phipps	Tyson
Bruce	Hastings	Pittman	Vandenberg
Burton	Hawes	Ransdell	Wagner
Capper	Hayden	Reed, Mo.	Walsh, Mass.
Caraway	Heflin	Reed, Pa.	Walsh, Mont.
Couzens	Johnson	Robinson, Ind.	Warren
Curtis	Jones	Sackett	Waterman
Dale	Kendrick	Schall	Watson
Deneen	King	Sheppard	Wheeler
Dill	McKellar	Shortridge	
Edge	McMaster	Simmons	

Mr. MOSES. I wish to announce the necessary absence of my colleague [Mr. KEYES] because of illness. This announcement may stand for the day.

Mr. BRATTON. My colleague [Mr. LARRAZOLO] is detained from the Senate by illness. I will let this announcement stand throughout the day.

Mr. GERRY. I desire to announce the necessary absence from the city of the Senator from Arkansas [Mr. ROBINSON], the Senator from New York [Mr. COPELAND], the Senator from New Jersey [Mr. EDWARDS], and the Senator from Georgia [Mr. GEORGE]. I ask that this announcement may stand for the day.

Mr. TRAMMELL. I wish to announce the unavoidable absence of my colleague the senior Senator from Florida [Mr. FLETCHER]. I ask that this announcement may stand for the day.

The VICE PRESIDENT. Eighty-two Senators having answered to their names, a quorum is present.

MESSAGE FROM THE HOUSE

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

S. 5129. An act authorizing Thomas E. Brooks, of Camp Walton, Fla., and his associates and assigns, to construct, maintain, and operate a bridge across the mouth of Garniers Bayou, at a point where State road No. 10, in the State of Florida, crosses the mouth of said Garniers Bayou, between Smack Point on the west and White Point on the east, in Okaloosa County, Fla.;

S. 5465. An act authorizing V. Calvin Trice, his heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across the Choptank River at a point at or near Cambridge, Md.; and

S. 5630. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Ohio River at or near Carrollton, Ky.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1648) for the relief of Oliver C. Macey and Marguerite Macey.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 15712) making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1930, and for other purposes; that the House had receded from its disagreement to the amendments of the Senate Nos. 16, 28, 29, and 54 to the bill and concurred therein; that the House had receded from its disagreement to the amendments of the Senate Nos. 41, 52, 55, 56, 57, 58, 59, and 60, and concurred therein severally with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. 11285) to establish Federal prison camps.

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

H. R. 5769. An act to authorize the consolidation and coordination of Government purchases, to enlarge the functions of the General Supply Committee, and for other purposes; and

H. R. 13461. An act to provide for the acquisition of land in the District of Columbia for the use of the United States.

ENROLLED BILLS SIGNED

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

S. 3848. An act creating the Mount Rushmore National Memorial Commission and defining its purposes and powers;

S. 4861. An act authorizing the Brownville Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Missouri River at or near Brownville, Nebr.;

S. 5543. An act to establish the Grand Teton National Park in the State of Wyoming, and for other purposes; and

H. R. 16422. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1930, and for other purposes.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate the following joint memorial of the Legislature of the State of Idaho, which was referred to the Committee on Finance:

LEGISLATURE OF THE STATE OF IDAHO, TWENTIETH SESSION,
IN THE SENATE.

Senate Joint Memorial 3 (by forestry committee)

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

Your memorialist, the Legislature of the State of Idaho, respectfully represents that—

Whereas the lumber industry in Idaho is of importance secondary only to that of agriculture; and

Whereas by reason of large investments, carrying charges, and overhead expenses involved, the frequent suspension of operations is ruinous to the lumber industry, and such suspensions adversely affect directly and indirectly a large number of our citizens; and

Whereas large shipments of lumber and wood products, produced abroad at lower operating costs than prevail in the United States, are now admitted free of duty in ruinous competition with the output of our mills; and

Whereas existing conditions result in great loss of employment to many skilled woodsmen and millmen during considerable portions of the year: Now, therefore, be it

Resolved by the Senate of the State of Idaho (the House of Representatives concurring), That, with a view to encouragement, stabilization, and protection of the lumber industry in this and neighboring States, we urge upon Congress the advisability and necessity of imposing tariff duties upon all round and square timbers, rough and dressed lumber, match blocks, shingle bolts, shingles, lath, sash, doors, moldings, and mill work imported into the United States; and be it further

Resolved, That the secretary of state of the State of Idaho is authorized and directed to forward this memorial to the Senate and House of Representatives of the United States, and that copies thereof be sent to the Senators and Representatives in Congress from this State.

This senate joint memorial passed the senate on the 16th day of February, 1929.

W. B. KINNE, *President of the Senate.*

This senate joint memorial passed the house of representatives on the 16th day of February, 1929.

D. S. WHITEHEAD,
Speaker of the House of Representatives.

I hereby certify that the within Senate Joint Memorial No. 3 originated in the senate during the twentieth session of the Legislature of the State of Idaho.

CARL C. KITCHEN, *Secretary of the Senate.*

Mr. WALSH of Montana presented a joint memorial of the Legislature of the State of Montana, praying for the passage of legislation enacting a tariff schedule upon manganese ore or concentrates of all kinds according to the schedule herein set forth as a minimum and that paragraph 302 of the present law now in force and effect, known as the Fordney-McCumber Act, be amended to read:

Manganese ore or concentrates of all kinds, containing less than 10 per cent of metallic manganese, shall be admitted free of duty; containing 10 per cent or more of metallic manganese and less than 20 per cent, one-half of 1 cent per pound on the metallic manganese contained therein; containing 20 per cent or more of metallic manganese and less than 25 per cent, 1 cent per pound on the metallic manganese contained therein; containing 25 per cent of metallic manganese, or more, 1½ cents per pound on metallic manganese contained therein.

And that such schedule be and become immediately effective and operative upon enactment and approval, which was referred to the Committee on Finance.

(See joint memorial printed in full when laid before the Senate by the Vice President on the 19th instant, page 3711 of the RECORD.)

Mr. NORRIS presented the following resolution agreed to by the Nebraska State House of Representatives, which was referred to the Committee on Finance:

Resolution

Whereas it is the general belief that any successful attempt to secure general improvement in the condition of agriculture in the United States must have as a basic principle the establishment of tariffs which will guarantee to agriculture and stock raising a fair and remunerative home market; and

Whereas the growing importance of livestock in connection with the production of crops and the conversion of crops into meat and its by-products is recognized as essential to successful farming; and

Whereas there is nothing of greater importance than saving our home markets for our own people: Therefore be it

Resolved, That the Legislature of the State of Nebraska request the Senators and Congressmen from Nebraska to use all honorable means to secure prompt enactment by Congress of legislation which will increase tariff protection on meat and its by-products.

W. M. BARBOUR.

STATE OF NEBRASKA, FORTY-FIFTH SESSION,
HOUSE OF REPRESENTATIVES,
Lincoln, Nebr., February 19, 1929.

I hereby certify that the foregoing resolution was adopted by unanimous vote of the house of representatives on this date.

FRANK P. CARRICK,
Chief Clerk of the House.

Mr. STECK presented the following concurrent resolution of the Legislature of the State of Iowa, which was referred to the Committee on Agriculture and Forestry:

House Concurrent Resolution 5 (by committee on agriculture)

Whereas the livestock producers of this country are from justice and necessity entitled to a market for the sale of their livestock which will insure most advantageous results to the governed either by the natural laws of competition and supply and demand or some other system equally effective; and

Whereas during the last few years there is in existence a system of direct or private buying that has so expanded as to endanger, in the opinion of many, the open competitive livestock markets which have been built up in this country over a period of 50 years; and

Whereas it is the opinion of the vast majority of the stock growers that if the open competitive markets do not prevail the direct or private system of buying is, as it operates to-day, dangerous to the livestock interests of the country; and

Whereas approximately 40 per cent of the hogs now being shipped to the big terminal markets are bought in the country by packing agents and shipped to private stockyards, and by this system are kept out of the competitive market: Therefore be it

Resolved, That our Representatives in Congress are hereby requested and strongly urged to conduct a thorough and fair investigation of the questions of marketing livestock in all of its phases, especially with respect to the setting up of some form which will be satisfactory to livestock producers if the competitive market is becoming obsolete; such investigation to be made on a basis which will inspire confidence in the conclusions and result among the producers, the consumers, and the packers, the stockyards, and all other marketing agencies; that will tend to settle adequately the questions which have perplexed the country and Congress so much in the past concerning marketing problems of the livestock industry; be it further

Resolved, That a copy of this resolution be sent to each of our Representatives in Congress.

J. H. JOHNSON,
Speaker of the House.
ARCH. W. MCFARLANE,
President of the Senate.

I hereby certify that the foregoing concurrent resolution was duly adopted by the Forty-third General Assembly of the State of Iowa.

A. C. GUSTAFSON,
Chief Clerk of the House.

RATES ON GRAVEL, SAND, AND STONE

Mr. MCKELLAR. Mr. President, I ask unanimous consent to have printed in the RECORD and referred to the Committee on Interstate Commerce a suspension petition addressed to the Interstate Commerce Commission from a great many public officials and organizations in Tennessee and Kentucky in reference to railroad rates on road materials in those two States.

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

FEBRUARY 11, 1929.

To the Interstate Commerce Commission:

SUSPENSION PETITION

The undersigned, public officials, municipalities, and organizations, representing users and consumers of gravel, sand, crushed stone, and like commodities, respectfully request the commission to suspend increased rates for transportation of carload shipments of said commodities to destinations in western Tennessee, western Kentucky, and the State of Mississippi. The said increases are published to be effective March 1, 1929, in a schedule filed on behalf of the Mississippi Valley lines by their tariff-issuing agent, J. H. Glenn, known as Supplement No. 28 to I. C. C., No. A–655, superseding numerous tariffs now in effect, and which are to be canceled by supplements thereto.

And your petitioners request the commission to enter upon an investigation into the reasonableness and propriety of the said proposed increased interstate rates. Your petitioners respectfully urge the following grounds for suspension of the aforesaid schedule and investigation of the propriety and reasonableness of the proposed rates before they are allowed to become effective:

I. The proposed schedule involves very large advances in a level of interstate rates which has been maintained voluntarily by these carriers for many years and subjected to the various general rate increases.

Attached as Exhibit A hereto, we submit illustrations of some of the present interstate rates which were originally established voluntarily and which have borne the successive general increases, the proposed rates involved under the tariff sought to be suspended, and the amounts of the proposed advances.

It may be stated that the advances in going rates actually paid on movements of these commodities probably average about 30 cents per ton, or about 35 per cent.

II. These proposed increases in gravel, sand, and stone rates will lay a very heavy burden on the road-construction program of the States, counties, and municipalities of the Mississippi Valley at a time when there is urgent need and great public demand for road construction, and a like burden on the maintenance of hard roads and improved highways.

The commission may take judicial notice of the general demand throughout the country for improved highways and the large program of hard-road construction. Nowhere is the need for good roads greater

than in the Mississippi Valley. There is a very large mileage of unimproved highways which is scheduled or under consideration for construction, and a large mileage of roads to be reconstructed, as well as the local roads connecting the farms and plantations with the cities and villages in the States of Mississippi, western Tennessee, western Kentucky, and eastern Louisiana. The road-building program of the Mississippi Valley is less than one-seventh completed.

A fairly close estimate is that the increased rates would add approximately $1,500 per mile to the construction cost of the average gravel road, or about $1,250 per mile to the construction of an 18-foot concrete road.

Further, the advance will add heavily to the cost of annual maintenance of the gravel highways, such as are commonly laid through the Mississippi Valley.

It is further estimated that the increased rates, if permitted to take effect on interstate traffic and followed thereafter by relative advances on State traffic, will add not less than the following amounts to the total cost of highway construction within the three Mississippi Valley States named, as projected for the ensuing year, assuming that the increased rates, with their resulting burden on construction cost, do not curtail the road-building program. These figures are based on the reports of the various State highway engineers:

Tennessee	$943,250
Mississippi	511,200
Kentucky	471,625
Total	1,926,075

We do not have the figures for eastern Louisiana, but are informed that the advances in rates to points in that State would amount to approximately 30 cents per ton and would aggregate a very large annual sum.

III. While the new rates proposed in said schedule are ostensibly in accordance with the maximum scale of rates on these materials prescribed for interstate application in Georgia territory, etc., in case No. 17517 (Rates on Chert, Clay, Sand, and Gravel Within the State of Georgia, 122 I. C. C. 133) said proceedings did not involve the level or relationship of rates in Mississippi Valley territory; and the record therein affords no basis for assuming that the rates in the Mississippi Valley on said materials should be on the same level as the rates within southeastern territory. On the contrary, the evidence of record therein indicates that a lower level should be maintained in the Mississippi Valley.

If the commission will examine the record in No. 17517 and related cases it will find that only to an extremely limited extent were there involved any rates whatever into or within the Mississippi Valley. The only case in that series which involved any rates in the valley was No. 17763, and that only covered a section 3, not a section 13, allegation, as between complainants at Montgomery and Chattanooga, on the one hand, and competitors in Mississippi, on the other hand. But even that complaint named as defendants hardly any of the important railroads in the State of Mississippi or in the Mississippi Valley. Among the carriers omitted were the Southern Railway, Alabama & Vicksburg, Columbus & Greenville, Gulf & Ship Island, and Yazoo & Mississippi Valley Railroad Companies. Nor were the cases served on the State authorities of Mississippi in the manner necessary to confer jurisdiction under section 13.

Nevertheless witnesses for the Tri-State Road Material Association participated in those cases and offered evidence which was not questioned or rebutted tending to show that a lower basis of rates should be applied in the Mississippi Valley on these materials than in Georgia, etc.

IV. The transportation conditions with respect to physical characteristics of the railroads, conditions affecting engine tonnages, average train loadings of these materials and other commodities, are substantially more favorable in the Mississippi Valley than in southeastern territory and justify and require a lower basis of rates than would be reasonable in southeastern territory as maximum.

The earnings of the carriers under their present level of rates on these commodities have been amply sufficient, and the new rates would produce excessive earnings for the transportation services involved, as measured by the car-mile revenues, and in comparison with other commodities.

Your petitioners are prepared to establish these statements by competent and extensive evidence, if necessary, in the investigation that may be had following the suspension of these schedules.

V. Corresponding increases in intrastate rates on these materials within the State of Tennessee were also published in said schedule, Supplement No. 28 to Agent J. H. Glenn's I. C. C. No. A-655, to take effect March 1, 1929. But these intrastate rates have been suspended by the Railroad and Public Utilities Commission of the State of Tennessee by order entered the 24th day of January, 1929, and a proceeding of inquiry has been instituted thereon, known as I. and S. No. 1436.

Under the laws of the State of Mississippi corresponding increases in intrastate rates on these materials, if and when put in tariff form by defendants, would not be permitted to take effect and apply on intrastate commerce in said State, unless and until the State commission, upon due hearing, finds the same to be reasonable, just, and lawful, and approves said increases.

Petitioners are informed that the railroad companies have made application to the Mississippi Railroad Commission for authority to revise their schedules within the State of Mississippi, and that action thereon has not been taken by said commission.

VI. The general plan of cooperation between the Interstate Commerce Commission and the various State regulatory bodies, contemplated by paragraph (3) of section 13 of the interstate commerce act, seems to require that in fixing the level of interstate rates on materials of this character, being comparatively short-haul movements and for municipal or public purposes, the Federal commission should properly seek and expect the cooperation and assistance of the State commissions in the affected territory in conducting an investigation and considering the reasonableness of proposed advances before the same are permitted to take effect.

Your petitioners believe that if the commission calls upon the commissioners of the States involved in this matter, it will receive the cooperation of and substantial assistance from said commissioners in the problem of determining the proper level of rates on these materials to be applied throughout the Mississippi Valley.

VII. While mileage scales may be desirable for application on some commodities and in certain sections, they are not suited for rigid application to the transportation of heavy moving low-grade commodities produced in particular sections, as was recognized in the Southern Class Rate Case (100 I. C. C. 513, at 611).

The commission in the course of a discussion of the function and use of mileage scales, particularly on class traffic, among other things, said:

"On the other hand, group rates, as we have repeatedly recognized, are often defensible. They are particularly appropriate in the case of commodities produced only at certain points or in restricted localities, where commercial conditions by common consent are improved by the equalization of the points or areas of production. Group or differential relationships may also be created, and lawfully within limits, by carriers so situated that they are able to bring traffic into competitive markets at relatively low rates without undue preference."

Appendix A hereto is a statement of typical increases in rates involved in Supplement No. 28 to J. H. Glenn's I. C. C. No. A-655, from important origin points to representative destinations. The distances, present and proposed rates, and amount of increases are shown. Most of the movements as shown are interstate.

Copies of this protest are being served on the tariff-issuing agent and on traffic officers of the principal Mississippi Valley railroads.

Respectfully submitted.

JOHN S. BURCHMORE,
LUTHER M. WALTER,
NUEL D. BELNAP,
Attorneys for Undersigned Petitioners.

SIGNATURES ATTACHED TO INTERSTATE COMMERCE COMMISSION PETITION, DOCKET NO. 17517

Lauderdale County Hard Roads Commission, by William Tucker, jr., secretary.
City of Ripley, by T. H. Green, mayor.
J. K. White, chairman Pike Commission of Dyer County, Tenn.
City of Dyersburg, Tenn., by F. W. Latta, mayor.
City of Tiptonville, Tenn., by A. E. Markham, mayor.
Lake County Hard Roads Commission, by A. E. Markham, chairman.
Corporation of Union City, Tenn., by J. A. Priete, mayor-commissioner.
Corporation of Union City, Tenn., by C. G. Guill, finance commissioner.
Corporation of Union City, Tenn., by C. W. Meir, jr., treasurer.
Obion County Highway Commission, by A. L. Burrus, chairman.
Gibson County Highway Commission, by T. K. Happel, secretary.
City of Trenton, Tenn., by T. K. Happel, mayor.
City of Humboldt, Tenn., by A. H. Barnett, mayor.
Carroll County Department of Highways, by E. L. Pardue, engineer.
City of McKenzie, Tenn., by D. C. Gallimore, mayor.
Henry County, Tenn., by D. T. Spaulding, county judge.
City of Paris, Tenn., by W. Harry Dudley, treasurer.
E. M. Culley, mayor, City of Paris, Tenn.
City of Gleason, Tenn., by J. C. Ammons, mayor.
Weakley County Highway Commission, by J. R. Bowlin, chairman.
City of Dresden, Tenn., by J. W. Thomas, mayor.
City of Martin, Tenn., by George M. Brooks, mayor.
Fulton County, Ky., by W. L. Hampton, chairman fiscal court.
City of Hickman, Ky., by T. T. Swayne, mayor.
City of Fulton, Ky., by W. O. Shankule, mayor.
City of South Fulton, Tenn., by S. A. McDade.
Tipton County Board of Highway Commissioners, by E. F. Elam, secretary.
City of Covington, Tenn., by J. A. Sheeson, mayor.
County court judge of Tipton County, Tenn.; Charles B. McClelland, judge.
Fayette County Highway Committee, by A. M. Langdon, chairman.
Fayette County Highway Committee, by W. T. Loggins, secretary.

City of Memphis, Tenn., by Watkins Overton, mayor.
Shelby County (Tenn.) commissioners, by E. W. Hale, chairman.
Memphis Freight Bureau, by James S. Davant, commissioner.
County of Madison, Tenn.
City of Jackson, Tenn.
Southern Interior Traffic Association, by A. J. McGehee, attorney in fact.
City of Milan, Tenn., by J. M. Creswell, mayor.
Milan Chamber of Commerce, by Allen S. Eason, secretary.
Humboldt Chamber of Commerce, by A. D. Hassell, secretary.
State Highway Department of Tennessee, by H. S. Berry, commissioner; W. F. Barry, assistant attorney general.
State Highway Department of Mississippi, by J. C. Roberts, chairman.

EXECUTIVE REPORT

Mr. BORAH. I ask unanimous consent, out of order, to submit a report for the Executive Calendar.

The VICE PRESIDENT. The report will be placed on the Executive Calendar.

REPORTS OF COMMITTEES

Mr. WAGNER, from the Committee on Military Affairs, to which was referred the bill (H. R. 5264) for the relief of James P. Cornes, reported it without amendment and submitted a report (No. 1865) thereon.

Mr. STECK, from the Committee on Military Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (H. R. 4626) for the relief of Maj. Arthur A. Padmore (Rept. No. 1866); and

A bill (H. R. 7230) for the relief of Charles L. Dewey (Rept. No. 1867).

Mr. SHEPPARD, from the Committee on Military Affairs, to which was referred the bill (H. R. 12650) for the relief of John F. Fleming, reported it with an amendment and submitted a report (No. 1868) thereon.

Mr. TYSON, from the Committee on Military Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (H. R. 12867) granting an honorable discharge to Pierce Dale Jackson (Rept. No. 1869); and

A bill (H. R. 13260) for the relief of Josiah Harden (Rept. No. 1870).

Mr. BLAINE, from the Committee on Military Affairs, to which was referred the bill (H. R. 12359) for the relief of the widow of Edwin D. Morgan, reported it without amendment and submitted a report (No. 1871) thereon.

Mr. McMASTER, from the Committee on Military Affairs, to which was referred the bill (H. R. 16169) to authorize the Secretary of War to accept title to a certain tract of land adjacent to the Indiana Harbor Ship Canal at East Chicago, Ind., reported it without amendment and submitted a report (No. 1872) thereon.

He also, from the same committee, to which was referred the bill (S. 4824) for the relief of Francis X. Callahan, reported it with an amendment and submitted a report (No. 1873) thereon.

Mr. DALE, from the Committee on Commerce, to which was referred the bill (S. 5677) to amend section 2 of the act, chapter 254, approved March 2, 1927, entitled "An act authorizing the county of Escambia, Fla., and/or the county of Baldwin, Ala., and/or the State of Florida, and/or the State of Alabama to acquire all the rights and privileges granted to the Perdido Bay Bridge & Ferry Co. by chapter 168, approved June 22, 1916, for the construction of a bridge across Perdido Bay from Lillian, Ala., to Cummings Point, Fla.," reported it with an amendment and submitted a report (No. 1874) thereon.

He also, from the same committee, to which were referred the following bills, reported them severally with amendments and submitted reports thereon:

A bill (S. 5336) authorizing Walter J. Mitchell, his heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across the Patuxent River between Charles County, Md., and Calvert County, Md. (Rept. No. 1880);

A bill (S. 5740) to legalize a bridge across St. Johns River, 2½ miles southeast of Green Cove Springs, Fla. (Rept. No. 1875); and

A bill (S. 5802) to extend the time for completing the construction of a bridge across Lake Champlain at or near East Alburg, Vt. (Rept. No. 1876).

Mr. ROBINSON of Indiana, from the Committee on Military Affairs, to which was referred the bill (H. R. 14242) for the relief of Everett A. Dougherty, reported it without amendment and submitted a report (No. 1877) thereon.

He also, from the same committee, to which was referred the bill (H. R. 4244) for the relief of Joseph Lee, reported it with an amendment and submitted a report (No. 1878) thereon.

Mr. REED of Pennsylvania, from the Committee on Military Affairs, to which was referred the bill (H. R. 9014) for the relief of Anthony Mullen, reported it with an amendment and submitted a report (No. 1879) thereon.

Mr. BROOKHART, from the Committee on Civil Service, to which was referred the bill (S. 5785) to establish a board of civil-service appeals and to amend an act entitled "An act to provide for the classification of civilian positions within the District of Columbia and in the field service," approved March 4, 1923 (ch. 265, 42 Stat. 1488), and for other purposes, reported it without amendment and submitted a report (No. 1881) thereon.

He also, from the Committee on Military Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (S. 4796) for the relief of Jesse J. Britton (Rept. No. 1882); and

A bill (S. 5386) extending benefits of the World War adjusted compensation act, as amended, to John J. Helms (Rept. No. 1883).

Mr. CAPPER, from the Committee on Claims, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

A bill (H. R. 11508) for the relief of Kirby Hoon (Rept. No. 1885);

A bill (H. R. 13521) for the relief of Minnie A. Travers (Rept. No. 1886);

A bill (H. R. 13573) for the relief of Pedro P. Alvarez (Rept. No. 1887); and

A bill (H. R. 14823) for the relief of the Meadow Brook Club (Rept. No. 1888).

Mr. McMASTER, also from the Committee on Claims, to which was referred the bill (S. 4681) for the relief of Gilbert Peterson, reported it without amendment and submitted a report (No. 1889) thereon.

Mr. BLACK, from the Committee on Claims, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (H. R. 5341) for the relief of the Staunton Brick Co. (Rept. No. 1890); and

A bill (H. R. 13132) for the relief of J. D. Baldwin, and for other purposes (Rept. No. 1891).

Mr. STEIWER, from the Committee on Claims, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (S. 5017) for the relief of Cullen D. O'Bryan and Lettie A. O'Bryan (Rept. No. 1892); and

A bill (H. R. 7173) granting compensation to the daughters of James P. Gallivan (Rept. No. 1893).

Mr. NYE, from the Committee on Claims, to which was referred the bill (H. R. 11422) for the relief of Samuel J. D. Marshall, reported it without amendment and submitted a report (No. 1894) thereon.

Mr. BAYARD, from the Committee on Claims, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

A bill (S. 4354) for the relief of Atlantic Refining Co., a corporation of the State of Pennsylvania, owner of the American steamship *H. C. Folger*, against U. S. S. *Connecticut* (Rept. No. 1895);

A bill (S. 4931) for the relief of D. B. Heiner (Rept. No. 1896);

A bill (S. 5056) for the relief of William B. Thompson (Rept. No. 1897);

A bill (H. R. 8886) for the relief of Luc Mathias (Rept. No. 1898);

A bill (H. R. 10417) for the relief of George Simpson and R. C. Dunbar (Rept. No. 1899); and

A bill (H. R. 11260) for the relief of Frans Jan Wouters, of Antwerp, Belgium (Rept. No. 1900).

Mr. VANDENBERG, from the Committee on the District of Columbia, to which was referred the bill (S. 5843) to provide for the relocation of Michigan Avenue adjacent to the southerly boundary of the United States Soldiers' Home grounds, and for other purposes, reported it without amendment and submitted a report (No. 1901) thereon.

ENROLLED BILLS PRESENTED

Mr. GREENE, from the Committee on Enrolled Bills, reported that on this calendar day that committee presented to the President of the United States the following enrolled bills:

S. 3848. An act creating the Mount Rushmore National Memorial Commission and defining its purposes and powers;

S. 4861. An act authorizing the Brownville Bridge Co., its successors and assigns, to construct, maintain, and operate a

bridge across the Missouri River at or near Brownville, Nebr.; and

S. 5543. An act to establish the Grand Teton National Park in the State of Wyoming, and for other purposes.

BILLS INTRODUCED

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

By Mr. JONES:

A bill (S. 5873) granting a pension to Mrs. Pliny A. Durant; to the Committee on Pensions.

By Mr. BRATTON:

A bill (S. 5874) granting an increase of pension to Garfield Hughes; to the Committee on Pensions.

By Mr. NORRIS:

A bill (S. 5875) to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Niobrara, Nebr.; to the Committee on Commerce.

By Mr. CAPPER:

A bill (S. 5876) for the acquisition, establishment, and development of the George Washington Memorial Parkway along the Potomac from Mount Vernon and Fort Washington to the Great Falls, and to provide for the acquisition of lands in the District of Columbia and the States of Maryland and Virginia requisite to the comprehensive park, parkway, and playground system of the National Capital; to the Committee on the District of Columbia.

By Mr. SACKETT:

A bill (S. 5877) to include henceforth, under the designation "storekeeper-gaugers," all positions which have heretofore been designated as those of storekepers, gaugers, and storekeeper-gaugers; to make storekeeper-gaugers full-time employees, and for other purposes; to the Committee on the Judiciary.

A bill (S. 5878) authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Ohio River at or near Maysville, Ky.; to the Committee on Commerce.

By Mr. DILL:

A bill (S. 5879) authorizing Llewellyn Evans, J. F. Hickey, and B. A. Lewis, their heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge and approaches thereto across Puget Sound, within the county of Pierce, State of Washington, at or near a point commonly known as the Narrows; to the Committee on Commerce.

By Mr. JOHNSON:

A bill (S. 5880) to provide for the preservation and consolidation of certain timber stands along the western boundary of the Yosemite National Park, and for other purposes; to the Committee on Public Lands and Surveys.

AMENDMENTS TO DEFICIENCY APPROPRIATION BILL

Mr. HAYDEN submitted an amendment intended to be proposed by him to House bill 17223, the second deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed, as follows:

On page 41, after line 21, insert the following:

"Printing and binding: For an additional amount for printing and binding water-supply papers for the Geological Survey for the fiscal year 1930, $65,000.

"For an additional amount for the item for gaging streams and determining the water supply of the United States under the appropriation for the Geological Survey in the 1930 appropriation act for the Interior Department to be expended for personal services in the District of Columbia, $5,000."

Mr. PHIPPS submitted an amendment intended to be proposed by him to House bill 17223, the second deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed, as follows:

At the proper place in the bill insert the following:

"Denver (Colo.) customhouse, etc.: For continuation under an estimated total cost of $1,210,000 in lieu of $1,060,000 fixed in the act of March 5, 1928."

SURVEY OF INDIAN CONDITIONS—COUNSEL FOR INDIAN OFFICE OFFICIALS AND CROSS-EXAMINATION OF WITNESSES

Mr. HAYDEN submitted an amendment intended to be proposed by him to the resolution (S. Res. 308) continuing until the end of the first regular session of the Seventy-first Congress Senate Resolution No. 79, authorizing a general survey of Indian conditions, which was ordered to lie on the table and to be printed.

COMMITTEE ON AGRICULTURE AND FORESTRY

Mr. McNARY. I submit a resolution and ask that it be referred to the Committee to Audit and Control the Contingent Expenses of the Senate. It involves the authority on the part of the Committee on Agriculture and Forestry to hold hearings during the next Congress, and I ask the early consideration by the Audit and Control Committee of the resolution.

The resolution (S. Res. 336) was referred to the Committee to Audit and Control the Contingent Expenses of the Senate, as follows:

Resolved, That the Committee on Agriculture and Forestry, or any subcommittee thereof, hereby is authorized during the Seventy-first Congress to send for persons, books, and papers, to administer oaths and to employ a stenographer at a cost not exceeding 25 cents per hundred words, to report such hearings as may be had on any subject before said committee, the expense thereof to be paid out of the contingent fund of the Senate; and that the committee, or any subcommittee thereof, may sit during any session or recess of the Senate.

SUPPLY OF NEWSPRINT PAPER TO PUBLISHERS OF SMALL NEWSPAPERS

Mr. SCHALL submitted the following resolution (S. Res. 337), which was ordered to lie on the table:

Resolved, That the Federal Trade Commission is requested (1) to make an investigation and hold open hearings upon the question of whether any of the practices of the manufacturers and distributors of newsprint paper tend to create a monopoly in the supplying of newsprint paper to publishers of small daily and weekly newspapers or constitute a violation of the antitrust laws, and (2) to report to the Senate by filing with the Secretary thereof preliminary reports at intervals of not more than 30 days during such investigation, and, as soon as practicable, a final report to the results of such investigation and the evidence taken at such hearings, together with its recommendations, if any, for necessary legislation.

CONCURRENT RESOLUTIONS REFERRED

The following concurrent resolutions were referred to the Committee on Printing:

House Concurrent Resolution 56

Concurrent resolution to provide for the printing and binding of the proceedings in Congress and in Statuary Hall of the unveiling upon the acceptance of the statues of Henry Clay and Dr. Ephraim McDowell, presented by the State of Kentucky; and for the distribution of the 2,500 copies authorized to be printed;

And

House Concurrent Resolution 57

Concurrent resolution to provide for the printing of the first edition of the Congressional Directory of the first session of the Seventy-first Congress.

LOAD LINES FOR AMERICAN VESSELS

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 1781) to establish load lines for American vessels, and for other purposes.

Mr. JONES. I move that the Senate decline to agree to the amendments of the House, ask a conference on the disagreeing votes of the two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. JONES, Mr. McNARY, and Mr. RANSDELL conferees on the part of the Senate.

OREGON CAVES IN SISKIYOU NATIONAL FOREST, OREG.

Mr. McNARY submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3162) to authorize the improvement of the Oregon Caves in the Siskiyou National Forest, Oreg., 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 amendment numbered 3.

That the Senate recede from its disagreement to the amendments of the House numbered 1 and 2, and agree to the same.

CHAS. L. McNARY,
E. D. SMITH,
Managers on the part of the Senate.

DON B. COLTON,
SAM B. HILL,
Managers on the part of the House.

The report was agreed to.

NATIONAL INSTITUTE OF HEALTH

Mr. RANSDELL. I ask unanimous consent to read a very brief letter from the great philanthropist, Nathan Straus, of New York, relative to the bill introduced by me to create a national institute of health.

The letter is dated New York, November 21, 1928, and reads as follows:

Hon. JOSEPH E. RANSDELL,
Washington, D. C.

MY DEAR SENATOR RANSDELL: I herewith inclose a clipping of a letter which I addressed to the editor of the New York Times on February 21. I think this will interest you, and therefore call your attention to it.

I want to take this occasion to congratulate you on this splendid bill, which I hope will be successful in passing.

Very sincerely yours,

NATHAN STRAUS.

The clipping inclosed by Mr. Straus reads as follows:

WORK FOR HEALTH—REASONS FOR ACTION BY THE NATIONAL AUTHORITIES

To the EDITOR OF THE NEW YORK TIMES:

I wish to congratulate you on your helpful editorial in this morning's Times entitled "The Nation's Health," advocating that the bill introduced by Senator RANSDELL to create a national institute of health shall not be halted by a dissenting vote in the Senate.

The indorsement of the leading scientific institutions and of the foremost educators and health experts, such as Doctor Mayo, Doctor Wilbur, Doctor Johnson, of Yale, and Doctor Hunt, of Harvard, is sufficient authority to convince anyone that the creation of a national institute of health is a most urgent and most beneficial measure to help prevention of disease and prolongation of life.

For many years, ever since I devoted my attention and my means to these problems, I have advocated just such a measure, and I am happy that the national health institute is about to come into being. I can hardly conceive that a single voice will be raised in the Senate to delay the creation of this institute. There is no valid reason that could be advanced by onyone that would justify the losses in human health and in human life through postponement and procrastination.

There is no way in which greater good can be done to humanity than by protecting health and saving lives by preventing disease and warding off death. I have believed this for many years, and now, at the age of 81, I am more convinced of it than ever before.

The bill before the Senate has the approval of Secretary Mellon, and doubtless also of President Coolidge. It is my fondest hope that this measure will be passed without further delay.

NATHAN STRAUS.

NEW YORK, *February 20, 1929.*

I simply wish to add that Mr. Straus is one of the greatest life-savers and public benefactors the world has ever produced. He was the founder, in 1892, of a pasteurized-milk laboratory in New York, under the beneficent effects of which it is estimated there was a saving of 437,947 lives of children under 5 years of age during the 35 years from 1892 to 1927, inclusive. He is a wise and good man, who has devoted his fine intellect and vast wealth to the prevention of sickness and relief of human suffering in America and other countries. I hope his advice will be followed and the health institute bill be speedily passed without a dissenting vote.

ADDRESS BY PRESIDENT COOLIDGE

Mr. FESS. Mr. President, last evening at the Washington Auditorium the President of the United States made an entertaining address in which he made references of interest to the life of George Washington. I ask unanimous consent that the address may be printed in the RECORD.

The VICE PRESIDENT. Without objection it is so ordered.

The address is as follows:

My fellow countrymen, compared with some of the older nations, our holidays are few in number. Being less frequent, they are given a more formal observance. With the possible exception of the Fourth Day of July, none of them on the secular side arouses any more popular interest than the birthday of George Washington. Of course, he is honored for what he did. He was the leader in a successful struggle for independence, which gave him a justified military reputation. He was also the foremost influence in securing the adoption of our Federal Constitution, which gave us a free Republic. Naturally, he was chosen the first President. In this office he brought into practical operation the theories of our National Government, which demonstrated that he was not only a military leader but a sound and patriotic statesman. In addition to all his public service, he was a man of affairs. He ranks as the best business man of his day. Had there been no Revolutionary War he would undoubtedly have become the foremost colonial figure of his time.

It is because of his success in so many fields of action that his memory makes such a wide appeal. Wherever men love liberty we find a veneration for the name of George Washington. Wherever there are aspirations for a free government, whether already in being or in future expectation, there is admiration for the institutions he established. Wherever purity of character and self-sacrificing public service are admired, his name is honored and revered. Almost alone of the great figures of history, he can be accepted without any qualifications or reservations. Not only is his fame world-wide but his life is held in universal respect.

In a day when tilling the soil went mostly by the rule of thumb, we find him developing agriculture in a scientific way. While others were speculating, usually at a loss, he was investing in land and making a profit. When the political thought of his day was centered for the most part in each local colony, he had the vision to see and the understanding to comprehend the advantages of a Federal Union. Although his own State of Virginia had a college in his youth, and there were others in the North, with the possible exception of some short studies in surveying, he did not attend any of the higher institutions of learning. Yet he became a well-educated man himself, and in many of his public statements, and finally in his will, he was careful to disclose his views on the importance to republican institutions, of Government-supported free schools, and opportunities for higher education.

Here again he showed distinctly that he was nationally minded, because he coupled the personal benefits of a centralized university training with the cultivation of a national spirit in the students. Since his day so many local colleges and State universities have been established that the provisions of his will have never been put into execution. Yet it is a satisfaction to have this institution at least bearing his name in the National Capital. The views which he expressed on the all-important subject of education have that ring of truth and that soundness which makes them apply with the same force to-day as they had when they were uttered.

Although he, like Lincoln, did not have opportunity to take a college degree, yet, like the Great Emancipator, the Father of his Country had the advantage of working with a citizenship which was well permeated with college men, whom he constantly sought for his advisers in positions of responsibility. It should always be remembered that unless many of their associates had secured the liberal education which comes from college training, the career of both Washington and Lincoln would have been utterly impossible. Without well-educated leaders and general diffusion of learning among the people they would have had no success.

Outside of college walls, but usually under the guidance of competent instruction, Washington was a most painstaking and thorough student. He gained the position which he held through application to hard work. By that means his mind became well trained. He knew how to think.

Not only in what Washington said do we find much wise counsel relating to education, but we find even more in the man himself. His life justifies the existence and demonstrates the necessity of institutions for giving to our youth that broad culture which comes from application to a course in the liberal arts. We need men of technical training. They are much more necessary now than they were in the Revolutionary period. We could not maintain our modern life for any length of time without them. Washington himself would be entitled to considerable rank as an engineer in his day. It is necessary for our progress to have individuals who make a life study of one subject to the exclusion of everything else. The danger to them and from them lies in their becoming lost in particulars. While they are wonderfully skilled in their own subject, they often do not comprehend its relation to other subjects.

There would be a place in the world for the soldier and sailor who could see nothing but national defense, a place for the pacifist who would never engage in war and had no comprehension of international relations, for the physicist who had little interest in spiritual ideals, and a place in every large enterprise for the experts in accounting, in production, in transportation, and in merchandising, though they might understand nothing of the broad principles of political economy. But these talents will reach their greatest usefulness only when directed and coordinated by the wisdom of a comprehending executive who may not always know but who rarely fails to understand.

It was in this field that Washington appears to have excelled. He could not have written the Declaration of Independence. Yet, as a statesman he was easily the superior of Jefferson. He could not have prepared the intricate report on manufactures. Yet, he was a far better business man than Hamilton. His words and actions were such that he inspired confidence. The country followed him because it trusted him. They were willing to take his judgment concerning subjects which they did not themselves comprehend. In him was the essence of all great leadership, a power which gives men faith. The people looked on him and believed. They believed in themselves, in their country, and in their future destiny. In that faith they conquered.

It is possible that this kind of talent is born, not made. Yet, as we study the lives of those who have possessed it, we can not escape the conviction that it is enlarged by rigorous training. The only military experience that Lincoln ever had was a few days' service in the Black Hawk War, to which he always referred to with a mixture of amusement. Yet from his early youth we find him constantly employed in the deepest of study trying to learn how to think. Mathematical accuracy was no mere figure of speech with him. His old note papers show that he was engaged in demonstrating his conclusions in accordance with the principles of geometry. When he came to be tried out in a great conflict the dispatches he sent to his armies in the field indicate that his military judgment was unsurpassed by that

of any of his generals. When the great Jefferson, master writer, brilliantly discoursing on the rights of man, was markedly indifferent to declaring and defending the rights of his countrymen it was the practical Washington who was bending all his energies to make the rights of man a reality by establishing this Republic under a Federal Constitution.

In all the efforts which our institutions of learning are making to develop science they ought not to fail to put a large emphasis on the development of wisdom. We shall fail, if we put all our endowments, all our honor, and all our efforts into our technical schools and leave unsupported our schools of liberal arts. It will be found just as impossible to secure progress without them as it is to secure civilization without religion.

In addition to the great example of his life, he left a legacy of wise advice and counsel to his fellow countrymen concerning their relations to each other, to their Government, and to their God. As he was about to leave the Army at the close of the Revolutionary War in June, 1783, he issued a letter addressed to the governors of the several States in which he summed up his solicitous interest in the cultivation of good citizenship in the following paragraph:

"I now make it my earnest prayer that God would have you, and the State over which you preside, in His holy protection; that He would incline the hearts of the citizens to cultivate a spirit of subordination and obedience to government; to entertain a brotherly affection and love for one another, for their fellow citizens of the United States at large, and particularly for their brethren who have served in the field; and, finally, that He would most graciously be pleased to dispose us all to do justice, to love mercy, and to demean ourselves with that charity, humility, and pacific temper of mind which were the characteristics of the Divine Author of our blessed religion, and without an humble imitation of whose example in these things we can never hope to be a happy nation."

His better-known Farewell Address contains nothing finer than this simple, direct, but all-embracing admonition.

Washington was one of the first in a practical way to conceive of the United States as an independent establishment. Before him it had been a Province. After him it was a Nation. Even following the Revolution there were many people in this country who clung to the old thought that we were a European dependency. If we were not to look to England, then we must look to France. It was the clear belief of Washington that we must look to ourselves. Habits of thought live on. There are still those among us who have an inferiority complex, and there are still people in Europe who regard us as a Province. He therefore warned us in his Farewell Address to beware of permanent and political alliances. The phrase entangling alliances is not from him, but from Jefferson.

In the thought of that day an alliance meant the banding together of two or more nations for offensive and defensive purposes against certain other nations either expressed or implied. It was a purely artificial creation. It had no reference to an association of practically all nations in an attempt to recognize their common interests and discharge their common obligations. While we should at all times defend our own independence and maintain our own sovereignty, we should not forget that all nations as well as all individuals have natural and inalienable rights "of life, liberty, and the pursuit of happiness," in the words of Jefferson, and, while we should fail disgracefully in our mission in the world if we did not protect those rights for ourselves, we shall also fail if we do not respect them in others.

This principle was clearly understood by our first President, and, being understood, he did not hesitate to put it into operation. When the French undertook to interfere in our affairs in such a way as to threaten the integrity of our Government, he called them to account. When our own citizens, on the other hand, were resentfully refusing to recognize the rights of English subjects, Washington was equally insistent that our Government and our citizens should faithfully discharge their legal obligations—even to our Tory enemies. The Revolutionary War inevitably left many undecided questions pending between the United States and Great Britain. There was the question of turning over to this country certain outposts. There were also certain boundary disputes, which were not adjusted until well into the next century. These in turn were followed by differences concerning fisheries. Of course, everyone recalls the difficulties under which we suffered as neutrals during the Napoleonic era, which resulted in the War of 1812. A like experience came to us in the World War. We have also had issues arise, sometimes of a serious and threatening nature, with many other countries. We had them during the early period of our national life and shall undoubtedly continue to have them in the future. Both foreign and domestic affairs will constantly produce new questions for consideration.

Those who feel in a considerable state of alarm when they learn that there are subjects requiring diplomatic adjustment at the present time would probably be somewhat relieved if they would consider the history of our international relations. So long as we continue as a Nation we shall have such relations. Because there are matters which require adjustment is no reason for grave concern. There are more and more methods by which the certainty increases that they will be composed.

It is possible to say of our foreign relations at the present time that they have rarely been in a more happy condition. The uncertainties which existed south of the Rio Grande have been very much relieved. The domestic disorders in Central America are being adjusted with a satisfaction that is almost universal. Even the mouths of those who would rather criticize us than have us do right have been stopped. The recent Pan American Congress held in Washington exhibited a spirit of friendliness and good will which was most gratifying. Competent and experienced observers have assured me that our relations with South America are on the most satisfactory basis that they have been for 25 years. On the far side of the Pacific our situation is equally satisfactory. We have no important unadjusted problem with the government of any European nation, with the exception of Russia. Outside of that country all the issues that arose, even out of the World War, have been adjusted.

Of course, our citizens meet the citizens of other countries in commercial rivalry in the market places of the world. That will always continue. It is the natural and inevitable result of foreign trade. But it does not raise any issue between our Government and other governments. We believe in a policy of national defense and maintain an Army and a Navy for that purpose. Other countries have similar military establishments. We are committed to the principle of limitation of armaments. The other great powers through the public opinion of their people and the binding obligation of their treaties are more firmly committed to this principle than we are. Each government is conscientiously seeking to extend this principle. It does not raise any issue among us.

It seems desirable to mention this subject in order that the people of the United States may have my opinion concerning it. We have recently had a national campaign in which, of course, the opposition party was expected to criticize the foreign policy of the Government and suggest that important unsettled issues were gravely interfering with the friendly attitude which we desire to cultivate abroad. In other countries there will be similar campaigns, where the parties out of power will criticize their governments in a like manner. There was nothing in our election to indicate that our own country took such statements seriously, and I therefore trust they will not be taken seriously abroad.

For the same reason, our people should not take seriously the campaign utterances of those who may be seeking to supersede the governments in power in other countries. Political utterances of this nature should be carefully differentiated from statements by responsible Government authorities. I should like the people of the United States to know that at the present time there are no questions of importance awaiting settlement between our Government and any of the European governments with which we have relations. Our Government is on the most cordial and friendly terms with all of them.

Because this is true, there should be an attitude of kindness and good will between our people and all the European people. Whenever we see statements constantly made and seriously entertained concerning the conduct and intentions of our Government likely to prejudice it at home or abroad, there comes a time when a candid presentation of the facts is required to promote a state of better understanding. Such an expression is entirely different from a constant attitude of fault-finding and hostility toward everything that is foreign. The governments are friendly. The people and the press should be friendly. The respect and confidence of European governments is especially evidenced by the unanimous request, not to say insistence, that citizens of the United States should contribute their assistance and counsel in the effort to make a final adjustment of the problem of reparations.

Of course, in past negotiations we have reached conclusions with them through the necessary process of give and take, but their actions have demonstrated that their governments feel that our conduct has been such that they can trust us. After all, the great measure of our standing in the world is determined by whether other nations turn to us for assistance when they have difficulties among themselves. Our very detachment puts us in the position where we are constantly rendering a service to the world which would not otherwise be possible. While we are not associated with any particular foreign group, in the last analysis they all know that they can apply to us when they are in need of friendly offices.

This is the position which I judge Washington wished his country to occupy. While he warned us against alliances with any, he was no less urgent in counseling the maintenance of friendly relations with all. As our strength has increased, as our power to maintain our independent position has grown, the wisdom of his warning and his counsel has become more and more apparent. Some nations are so situated that it has been and is now necessary for them to seek understandings with others in order to perpetuate their own existence. Others have interests so detached and territory so scattered that they can best protect themselves by some method of regional relations. Our situation is such that we are and can remain unhampered by any such necessities. We do not seek isolation for its own sake, or in order that we may avoid responsibility, but we cherish our position of unprejudiced detachment, because through that means we can best meet our world obligations.

If we became closely identified with any specific grouping of nations, however advantageous it might be to us, we could not hope to continue to perform that service.

As we study the statesmanship of Washington, as we see it demonstrated in our domestic and foreign experience, he becomes a larger and larger figure. The clearness of his intellect, the soundness of his judgment, the wisdom of his counsel, the disinterested patriotism of his actions, are constantly revealed to us with a new and compelling force. The reverence for his memory continues to increase. The people of the United States feel that they were exalted in his victory. The people of England feel that even in the defeat of their arms abroad he carried their ideals to victory at home. Such a conquest could not be made save by an exponent of universal truth.

INTERPARLIAMENTARY UNION

Mr. THOMAS of Oklahoma. Mr. President, on behalf of the American group of the Interparliamentary Union I ask unanimous consent to have printed in the RECORD the minutes of the twenty-fifth annual meeting held in this city February 24, 1928.

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

The minutes are as follows:

THE AMERICAN GROUP OF THE INTERPARLIAMENTARY UNION

TWENTY-FIFTH ANNUAL MEETING, FEBRUARY 24, 1928

(Stenographic report of the minutes)

The twenty-fifth annual meeting of the American group of the Interparliamentary Union was held in the committee room of the House Committee on Naval Affairs, House Office Building, Washington, D. C., this day, beginning at 10.30 o'clock a. m., Hon. THEODORE E. BURTON, the president, presiding. Those present who took part in the proceedings were: Hon. THEODORE E. BURTON, president; Hon. ANDREW J. MONTAGUE, vice president; Hon. ADOLPH J. SABATH, treasurer; Arthur Deerin Call, executive secretary; Hon. SOL BLOOM, Hon. FRED A. BRITTEN, Hon. CARL R. CHINDBLOM, Hon. HENRY ALLEN COOPER, Hon. EDGAR HOWARD, Hon. JED JOHNSON, Hon. JAMES G. MCLAUGHLIN, Hon. MELVIN J. MAAS, Hon. STEPHEN G. PORTER, Hon. FRED S. PURNELL, Hon. ELMER THOMAS and Hon. HENRY W. WATSON.

The PRESIDENT. The meeting will please come to order. Shall we listen to the reading of the minutes?

The EXECUTIVE SECRETARY (Mr. Call). Mr. Chairman and gentlemen, the minutes of the last meeting were printed in the CONGRESSIONAL RECORD for February 16, 1928. You may wish, therefore, to omit the reading of the minutes.

Mr. MONTAGUE. I move that the reading of the minutes be omitted.

(Upon being put to vote, the reading of the minutes was dispensed with.)

The PRESIDENT. Now comes the executive secretary's report.

The EXECUTIVE SECRETARY (Mr. Call). Mr. Chairman, the CONGRESSIONAL RECORD for February 16 contains our by-laws and a fairly complete report for the year. The Paris conference report, however, lacks two things which ought to be a part of the record, and I therefore call your attention to them here.

One is the fact that Mr. Bartholdt, who is a life member of the Interparliamentary Union, delivered an address and presented a draft treaty for general arbitration. The address appears in the Compte Rendu of the conference, and the treaty has been printed in the Bulletin of the Interparliamentary Union.

Mr. William D. B. Ainey, of Harrisburg, Pa., also a life member of our group and of the union, called a meeting in Paris, at which he reviewed the pre-war activities of the American-Japanese section of the Interparliamentary Union, which were suspended during the war.

On motion of Hon. ROY G. FITZGERALD, Member of Congress, Mr. Ainey was unanimously elected president of this section, and upon a similar motion Hon. K. Nakamura, member of the Imperial Parliament of Japan, was unanimously elected vice president.

Upon motion, it was unanimously agreed that the president and vice president be authorized, after conference with their respective groups, to arrange a program for the next meeting of the American-Japanese section. All the Japanese and American representatives to the Paris conference of the Interparliamentary Union, either personally or by authority, expressed their adherence to and interest in the organization of the American-Japanese section.

A list of the representatives, either actually present or represented by such authorizations, revealed that there are 8 Japanese and 14 American members of the group.

We have received 20 copies of the report of the Paris conference, all but 3 of which have been distributed. Extra copies have been ordered from Geneva.

I think it ought to be mentioned again that the Interparliamentary Union publishes bimonthly a periodical known as the Interparliamentary Bulletin. That is the official organ of the Interparliamentary Union. It contains documents of importance and outlines of what is going on in the Interparliamentary Union from time to time. If any of you wish that bulletin, it will cost 40 cents a year in American money. The Interparliamentary Union publishes other publications.

Mr. MONTAGUE. How generally is that bulletin sent now to members of the union here?

The EXECUTIVE SECRETARY. I think it is about 20 copies now that are distributed here. That is a copy of it [exhibiting copy].

Mr. MONTAGUE. Is that in French?

The EXECUTIVE SECRETARY. No; it is in English. It is issued in English, French, and German.

Now, gentlemen, you will be interested to know that the council of the Interparliamentary Union is to have a meeting on the 2d day of April, 1928, the place of the meeting being Prague, Czechoslovakia. The final convocation will be shortly sent out. Here is the agenda of that meeting of the council. I mention it to you because we have two members of the council, Mr. BURTON and Mr. MONTAGUE, and whether or not we should be represented at the meeting of the council is for this body to decide.

There will be on the agenda the approval of the minutes of the previous meeting; communication of the program of the bureau for 1928; report of the auditors; convocation of the twenty-fifth conference; fixation of the agenda of the conference and communication of certain draft resolutions to be submitted to the conference; application of Article X of the statutes fixing the number of votes allowed to each group at the next conference.

You know we are allowed now under the rule to be represented by 24 delegates. It is probable that on this agenda there will be a revision of certain provisions in the statutes and regulations on the basis of proposals made by the organizations committee. It is probable that they will nominate a treasurer of the union.

There is nothing very startling on this agenda. It is not expected that the council will make any vital alteration in the program of the Berlin conference, which is fixed as follows:

First. General debate.

Second. The evolution of the representative system.

Third. Migration problems.

Fourth. Drafting of Fundamental Principles for the Collective Life of States.

In connection with the evolution of the Representative system——

Mr. COOPER. What was that last one?

The EXECUTIVE SECRETARY. Drafting of Fundamental Principles for the Collective Life of States.

Mr. COOPER. What does that mean?

The PRESIDENT. A platform in regard to the relations of the respective States to each other. The propositions that have been laid down by the committee are given on page 231 of the Interparliamentary Bulletin for November and December, and if we have time I will read that.

The EXECUTIVE SECRETARY. In connection with the evolution of the representative system, attention is called to the publications which the bureau has issued, containing the answers of the five specialists in political economy consulted by the political committee on the question of the representative system.

The PRESIDENT. If I may interrupt there for a minute, I would suggest to the members the reading of those articles. They are exceedingly valuable to any student of parliamentary procedure, the place that the government parliaments should have in the government of nations, the question whether parliamentary bodies are losing prestige, and the reasons therefor. Those are to be published in a book which costs four Swiss francs.

I am frank to say I have not read them all. There is one by Prof. Harold J. Laski, professor of political science at the London School of Economics which contains some of the most valuable suggestions in regard to legislative bodies that I have ever met. Then there is Professor Bonn, professor of the Institute of Higher Commercial Studies, at Berlin; Professor Borgeaud, professor of the University of Geneva; Professor Larnaude, dean and emeritus professor of the faculty of law of Paris University; and Prof. Gaetano Mosca, senator of the Kingdom of Italy and professor at the University of Rome.

One or two of these men represent a class of representatives in legislative bodies that we would hardly have in this country, men whose main activities are devoted to studies, professors in universities who are members of the senate or of the other house and have thereby a legislative connection. I most cordially recommend the reading of those articles. They are in English, and you will learn a great deal that is valuable.

Mr. HOWARD. Where will we find them?

The PRESIDENT. They are scattered through these issues of the Interparliamentary Bulletin. For instance, the issue for November-December has two. They are entitled "The Crisis in the Parliamentary System." Some one made the suggestion that legislative bodies were losing their hold, and thus that expression, "The Crisis," is used as the title. The November-December issue has the articles by Professor Bonn and Prof. Gaetano Mosca.

Mr. CHINDBLOM. Is that the beginning of the series?

The PRESIDENT. No. Those are all, I believe.

Mr. COOPER. They are to be in one volume?

The PRESIDENT. One volume.

A VOICE. How can that be procured?

The EXECUTIVE SECRETARY. If you will give me your name and address, I will send it or see that it is sent to you.

The PRESIDENT. Those discussions, while in a measure academic, are one of the most valuable activities of the Interparliamentary Union.

The EXECUTIVE SECRETARY. In addition to the council meeting, which is to be held in Prague, there will be held March 29 and March 30 meetings of the juridical and political and organization committees sitting simultaneously. These two committees will have to prepare the final draft of the resolutions on the drafting of "Fundamental principles for the collective life of states" and "The evolution of the representative system" to be submitted to the conference in July.

The political and organization committee will also discuss the question of amending certain provisions in the statutes and regulations in order to bring them into conformity with the present practice.

On March 21 the committee for social questions, to prepare a report on immigration problems, will meet with the executive committee.

Prague has been chosen as a place of meeting on the invitation of the Czechoslovak group. The group, moreover, intends to arrange for facilities to be extended to the delegates to enable them to visit the country. Czechoslovakia, as you know, is not only interesting for its picturesqueness, but also offers to the student of economic and political questions a valuable study of a country in the process of evolving national unity out of fragments of what used to be the Austro-Hungarian Empire. This, together with the interesting nature of the questions before the various committees, leads the bureau at Geneva to hope that they will have present representatives from the American group at Prague the latter part of March and the first of April.

The PRESIDENT. In that connection I want to state that we are at very considerable disadvantage at these meetings of the Interparliamentary Union for the reason that the propositions to be brought up before each successive conference are considered at these meetings of the council. I consider that it would be impracticable for either Governor MONTAGUE or myself to attend that meeting at Prague at the ending of March and the beginning of April; and the result, of course, will be that we shall go to a meeting of the conference and find certain resolutions already drafted.

We have always been listened to with the utmost respect, but in order to give the fullest effect to the activities of this group it is quite desirable that we should be present at those sessions. That could be partly provided for by our framing of resolutions on the respective subjects to be considered and forwarding them before the committees of the council meet.

Mr. HOWARD. Would it not be possible, in view of the fact that our President and Vice President say that they can not attend, to secure volunteers?

The PRESIDENT. If anyone can go and will volunteer, that will be very good, but I take it that it being a season when the Congress is in session here, and probably at the height of its activity, it would be very difficult to get anyone to go. Again, it would have to be some one who is familiar with the general work of the union and of the activities of the conference.

Mr. HOWARD. My colleagues have no opposition in the primary.

Mr. MONTAGUE. Congress is in session.

The EXECUTIVE SECRETARY. Mr. President, there is one other thing to report, and that ends my report, and that is that the next meeting of the conference of the Interparliamentary Union will be held in the city of Berlin, upon the invitation of the German group, probably from July 15 on, lasting for about a week.

The PRESIDENT. It all depends on the time the elections are to be held in Germany. If the election is to be postponed until some time, say, in the summer—June or July—that means one thing. If the elections are held earlier, there would probably be an adjournment, and they wish the conference to meet while the Reichstag is in session. I have very strongly urged in the meeting of council the latest convenient date. In that I was supported by the English delegates. Their Parliament usually remains in session until the end of July, and I am satisfied they will give all possible attention to the joint requests of the two countries.

I should very much regret if we are not to be represented at that meeting, because we were at Paris, and if we do not attend the conference in Germany it would evoke some unfriendly feeling. On the other hand, it is a question whether we could get away from here after the adjournment of Congress in time to attend. The promise is that they will cable me when the council meets, about the 1st of April, and then I will circulate the notice around as to when it is to occur.

Is there anything further, Mr. Call?

The EXECUTIVE SECRETARY. No, sir.

Mr. PORTER. Mr. Secretary, I would like to make an inquiry with regard to procedure about the union. As you will recall, last summer in Paris all of the American resolutions with regard to the narcotic-drug traffic were approved, but before leaving I left another one which reads as follows:

"The Interparliamentary Conference, recognizing that, according to the scientific and medical opinion of the world, drug addiction is a disease which demands public regulation and correction, and believing that the proper treatment of those given to drug addiction, important as it is from a humanitarian standpoint, will also lessen the demand for narcotic drugs, and thus effect a curtailment of the illicit traffic and a reduction in production, recommends for the consideration of the groups of the union the adoption of measures by the governments concerned with a view to the compulsory treatment of drug addicts.

"The Interparliamentary Bureau is requested to transmit the present resolution of the groups of the union and to all the governments and parliaments of the world."

I left that resolution with Mr. Lange, assuming that that would become a part of the record, but I have a letter here from him in which he says:

"You handed me, before leaving Paris, draft of a resolution containing recommendation for adoption of measures by the governments as to compulsory treatment of drug addicts. I had no occasion to lay this before the committee."

When would that be considered under the rules of the Parliamentary Union? As I understand it, it must go to the committee first, as the other resolutions did.

The PRESIDENT. Yes.

Mr. PORTER. And then would be reported out at the plenary session?

The EXECUTIVE SECRETARY. That would naturally come up, I should say, before the council in Prague.

Mr. PORTER. Do you think it would be necessary for me to reintroduce it or send it in again?

The EXECUTIVE SECRETARY. If you will give me a copy of it, I will send it.

The PRESIDENT. That would rather emphasize it, I think. Suppose we introduce a resolution with regard to that, and if it be the opinion of the group that that should be so, let us send that on to the meeting there in March and April. I can readily realize how that was lost in the shuffle at the end of the session. Those things have to go to the council and committee before they are considered.

Mr. PORTER. Well, I will say to the group that it is in entire harmony with a bill which I introduced the other day. We have about 6,500 prisoners in the Federal penitentiaries, which can only accommodate about 3,000. Between two thousand and twenty-three hundred of those prisoners are drug addicts. The country, and I guess the medical profession, has now come around to the view that drug addiction is a disease, and not a vice, in an overwhelming majority of cases. So I introduced a bill the other day, in view of the fact that we had to build new penitentiaries, that instead of building new penitentiaries we build a couple of institutions for the care of these addicts, giving the Attorney General the power to remove the addicts, in his discretion, from the penitentiaries to these institutions for proper treatment.

I will not take your time too much with it, but if a man is suffering from drug addiction he will never recover in a prison cell. He needs fresh air, good food, and healthy environment, and the moment they discharge the man with, say, $10 or $15 in his pocket and with his frenzied desire for this drug, he will commit many crimes in order to secure money to buy the drug, and I have discussed this with a great many people, and it seems to meet with the unanimous approval of everyone, especially of members, and I am very anxious to have this resolution considered at the next meeting of the Interparlimentary Union. Of course, our own local bill will take care of the situation here.

The PRESIDENT. There are two courses to pursue. It is already there and naturally would be considered by the committee, but we can reinforce that by sending a letter asking them—I could send it myself or the Secretary could—or if the group thinks it best we might pass a resolution giving special consideration to it.

Mr. PORTER. That would give it greater force.

The PRESIDENT. Yes. If you will introduce such a resolution that the group approve that proposition, we can discuss and present it, and do I understand that you do introduce it as a motion?

Mr. PORTER. Yes.

The PRESIDENT. You have heard the motion.

Mr. HOWARD. Just what was the motion?

The PRESIDENT. That the group approve the resolution presented by Mr. PORTER and transmit it to the secretary general of the Interparliamentary Union, a copy of which has been read.

Mr. HOWARD. I move that the group approve that resolution.

Mr. MONTAGUE. I second that motion.

(The motion was put and unanimously carried.)

The PRESIDENT. Now, I think perhaps it might be well for you, Mr. PORTER, to state briefly what occurred in the meetings of the Union at Paris. I regarded the acceptance of the American contentions with regard to the use of narcotics as one of the triumphs of our delegation at that time. The resolution has been pending for some time before the Paris group. You may say that they accepted in toto your contentions?

Mr. PORTER. Yes. It is rather difficult to boil it down. As you know, the Geneva Opium Conference was held in 1923 and 1924. I was chairman of the American delegation, and we withdrew largely because we could not get the British and French and Portuguese and Spanish

to fix a definite time for the suppression of the traffic in prepared opium, as provided in Article VI, of chapter 2, of The Hague Opium Convention. In that article the contracting power agreed to suppress progressively the traffic in prepared opium.

Prepared opium is that which is used for smoking or eating. It is eaten in India and smoked in the colonies of these European powers out in the Orient. We contended that, 10 years having elapsed and that no effort had been made to suppress this traffic in the colonies of these four countries, we were entitled to have a definite time fixed. We fixed 10 years. Later we increased it to 15 years, and still later, in the final hope of coming to some sort of an agreement, I offered to make it 15 years, and it should not take effect until the treaty was ratified; but I found that, largely on account of revenue, it was impossible, and we withdrew. There were other matters, but that was the main one.

You see, they produce opium out there by the hundreds of tons, and the seepage from that opium or from the transportation of that opium enters our country through the smokers and causes a great deal of trouble. Brushing aside, of course, the idea of having one law for the East and one for the West, it is a penitentiary offense to sell a grain of morphine in the United States or England or France or any of those countries, while you can buy it by hundreds of pounds in the Orient, just like you buy groceries.

When the Interparliamentary Union met in Washington, Doctor Brabec, of Czechoslovakia, brought over a resolution urging ratification of the treaty which was made at Geneva. As I recall the language of his resolution it was this: That, while these treaties made only somewhat of a modest advance, the Interparliamentary Union urged their ratification and also that the defects be cured. I got into conference with Doctor Brabec and finally convinced him that a body representing the members of the highest legislative bodies in the world could hardly afford to say that these treaties were practically valueless and still urge their ratification. Doctor Brabec agreed with me about it, and the resolution was put in this form, that after the treaties had been perfected, as suggested in the resolution, that they should be ratified.

It was not considered in Washington for some reason. It was postponed to Ottawa, so I went up to Ottawa about a week later, and there they had two items on the agenda—the rights of minorities and opium. The debate on the rights of minorities was to be closed at 3 o'clock, but they discussed it until 6, when Sir Robert Horne got up, and I will never forget it—I have seen steam rollers before—but he said, "I venture to suggest in all humiliation that we have a dinner with the Canadian Parliament at 8 o'clock, and this matter should go over to the Geneva meeting next summer," and the chairman of the meeting announced that there would only be the one subject heard, and there was a vote of 39 to 37 in favor of postponement. So then I went to Geneva the next summer.

The PRESIDENT. That was not a meeting of the conference. That was a meeting of the committees.

Mr. PORTER. Of the committees, and I not only advocated Doctor Brabec's resolution, but introduced two of my own, one the original American proposition, urging the governments, or those governments which had not done so, to agree to stop the traffic in prepared opium within 10 years; also, a resolution urging the governments to prohibit the manufacture of heroin, which we have done in this country two years ago, on the recommendation of the American Medical Association. I may say, in regard to heroin, that it is by all odds the most dangerous of these drugs.

A VOICE. What is heroin made of?

Mr. PORTER. Heroin is made out of morphine. It is briefly this: The medical profession has never been able to find a substitute for morphine. Without morphine the practice of medicine would be a most unhappy one, and that is the difficulty in suppressing the traffic in morphine. We must have it for people who are dying with cancer and tuberculosis. But it has the bad effect of nausea and is habit forming. For hundreds of years we have been trying to find a substitute for it. A German chemist about 1906 found a substitute. It was widely advertised all over the world as the long-sought-for substitute, but it was not applicable. It was taken up by many American physicians, who became addicted to heroin, and we now know that it is the most dangerous of all drugs, and the American Medical Association in 1923 condemned its use.

There is only one instance where it is of any value, and that is in the case of very severe bronchitis; but there is another drug, codeine, which takes it place. But heroin—and I want to impress this upon you—if we can solve the heroin problem we have gone a long ways. The discovery of heroin and its sale throughout the world is responsible for the serious condition of addiction that we have to-day. The morphine addict, as a rule, does not do any particular harm to society, unless his craze for the drug is such, and he can not buy it, he will resort to crime to obtain it.

So I presented that resolution, and your president will remember we had quite a contest at Geneva, and the vote on the heroin was unanimous, the vote on the limitation of the production of arsenic was unanimous, but the vote upon fixing a definite time for the suppression of the traffic in opium was nine to seven, Great Britain and Yugoslavia opposing it.

When we got to Paris the resolutions were called up and they were all passed. The only opposition came from the British, and that was for fixing a definite period for the suppression of this traffic in prepared opium.

The difficulty there, I might as well be perfectly candid about it, is twofold: In many of those colonies the revenue derived from the government cocaine shops goes quite a long ways toward paying the expenses of the colonial governments. In the Straits Settlements it is about 47 per cent; in India it is about 7 per cent, and in the Dutch East Indies it is about the same. In Indo-China the French get about 26 per cent. Of course, that was the real opposition, and then there was another element in it. A great many of the Chinese coolies drift into these settlements, where they perform the menial labor. They naturally seek the association of their own countrymen. Many of these are smokers and many of the new men acquire the habit, and once a man acquires the smoking habit he is a slave; he is helpless. It is not like a man getting drunk, and they have to increase the dose as the tolerance of the system increases, until finally they get in a condition of abject slavery, and it insures a steady supply of menial labor throughout the entire season at the rubber and poppy and the other plantations.

There are two elements in it, the revenue and the question of menial labor.

This resolution, while it may sound rather innocent on its face, I think will be quite helpful, because when we press it, it is going to put these countries that have held back on the suppression of drug traffic in rather an awkward position. They can not recommend to their people the compulsory treatment of drug addicts, while at the same time they are deriving large revenue from the traffic.

I would like to say this: I regard these meetings of the Interparliamentary Union as very valuable; if for nothing else, it gives one valuable contacts. I have been enabled to reach an understanding with two governments through these conferences, and I know it is going to be productive of very helpful results.

Mr. WATSON. Where did the chief opposition come from?

Mr. PORTER. The British and Yugoslavs.

Mr. WATSON. Was it developed that the people over there were stockholders in the companies engaged in this traffic?

Mr. PORTER. Oh, no; this is a government monopoly.

The PRESIDENT. It is a very old question, reaching back to the war in China in about 1838 or 1840. Yugoslavia also is a producer of opium, and they oppose it. It was a matter of very serious opposition, especially in the meeting of the council and the committee at Geneva in 1926, but at Paris in 1927 the resolution was adopted substantially.

Mr. WATSON. Where does Yugoslavia produce opium?

The PRESIDENT. They produce a great share, about a million pounds' worth, they say.

Mr. WATSON. Of poppy?

The PRESIDENT. Yes, of poppy; and from that opium.

Mr. WATSON. Where do they produce it?

The PRESIDENT. I do not know what part of the country it is.

The EXECUTIVE SECRETARY. Their sales amount to about $5,000,000 a year.

The PRESIDENT. Yugoslavia and Turkey produce high-class opium.

Mr. SABATH. I think it is in the State of Herzegovina, in the southern section of Yugoslavia.

The PRESIDENT. At any rate, that was the country that opposed the proposition at Geneva.

Are there are any other reports of delegates to the twenty-fourth conference? If there are no further remarks in regard to the meeting at Paris, we will pass to the election of officers. Has anybody any motion with regard to that?

Mr. MONTAGUE. Mr. Chairman, I move that Mr. BURTON be elected president of the American group of the Interparliamentary Union.

Mr. HOWARD. I second the motion.

Mr. MONTAGUE. If it is agreeable, can I occupy the chair for a moment and put the question?

The PRESIDENT. Certainly.

The question was put and unanimously carried.

The PRESIDENT. I thank you, gentlemen.

Now, with regard to the other officers, the three vice presidents, the treasurer, the secretary, the executive secretary, and executive committee.

Mr. CHINDBLOM. Who are the three vice presidents now, please?

The EXECUTIVE SECRETARY. The three vice presidents are Representative ANDREW J. MONTAGUE, Representative HENRY W. TEMPLE, and Representative WILLIAM A. OLDFIELD.

Mr. BRITTEN. Mr. President, I move that the three vice presidents be reelected.

The motion was put and unanimously carried.

The EXECUTIVE SECRETARY. The treasurer is Representative ADOLPH J. SABATH.

Mr. BRITTEN. Has he ever rendered an accounting?

The EXECUTIVE SECRETARY. Oh, yes.

Mr. BRITTEN. With that information before the committee, I move that he be reelected.

The motion was put and unanimously carried.

The PRESIDENT. The next is the secretary.

The EXECUTIVE SECRETARY. Representative JOHN J. MCSWAIN, of South Carolina.

The PRESIDENT. He is not here to-day, but we all know that he takes quite an interest in these matters.

Mr. BRITTEN. I move that he be elected to succeed himself.

The motion was put and unanimously carried.

The PRESIDENT. The executive secretary is Mr. Call.

Mr. HOWARD. I nominate Mr. Call.

The motion was put and unanimously carried.

The PRESIDENT. The executive committee—will you please read the present names?

The EXECUTIVE SECRETARY. The executive committee consists of Representative THEODORE E. BURTON, chairman ex officio; Representative FRED BRITTEN, Representative TOM CONNALLY, Representative HENRY ALLEN COOPER, Representative CLARENCE F. LEA, Representative JAMES C. MCLAUGHLIN, Senator ALBEN W. BARKLEY, Senator CHARLES CURTIS, Senator JOSEPH T. ROBINSON, and Senator CLAUDE A. SWANSON.

Mr. CHINDBLOM. I move the reelection of the executive committee.

The motion was put and unanimously carried.

The PRESIDENT. It is to be borne in mind that no member is excluded from the work of the union because it does not belong on that executive committee. Now, the two members of the council—are they elected here?

The EXECUTIVE SECRETARY. Yes, sir. The two members of the council are Mr. BURTON and Mr. MONTAGUE.

Mr. HOWARD. Mr. President, I nominate Mr. BURTON and Mr. MONTAGUE.

Mr. BRITTEN. I second the nomination.

Mr. HOWARD put the motion and it was unanimously carried.

The PRESIDENT. That completes the election of officers. The next item is "Unfinished business." I want to make one suggestion. There has been a great deal of correspondence in regard to the problem of immigration. That has been up before the union and before the conferences for quite a number of years. We have a definite opinion in this country in that regard, I think, that it is exclusively a domestic question. For instance, in this statement of the fundamental principles for the collective life of states—this is a proposition which will be pending at the meeting at Geneva—I find this statement (sec. 13):

"The right to admit or expulse"—that word "expulse" was chosen by someone not altogether familiar with English—"expulse aliens should be regulated in international conventions containing provisions for the right of appeal."

I think you can readily interpret what that means; that if one country wishes to send its redundant population into another country, its right to do so shall be regulated by treaty between them. It takes it away from the position that we have always maintained in this country, that it is a purely local problem, and makes it international.

After consultation with a considerable number of members of the group, I have taken the liberty to send a cablegram in December, and later a letter to that effect, that we regard that as strictly and purely a domestic problem. If there is any other notion anybody has on it, I would like to hear it.

Mr. COOPER. If I remember correctly, more than one President has announced that that position is not only nonjustifiable, but that we could do nothing else than retain exclusive power in such cases to ourselves. President Roosevelt said so, and he simply confirmed what I think Cleveland had said before. This goes, as I understand, as indicated by you in your statement, to the very life of the Nation; because if they can force any people into a country, they can eventually control the electorate. So it affects the very life of a country; and the country itself, therefore, must be the sole judge in the matter.

Mr. MONTAGUE. I had a letter from Mr. Lange upon that topic. He told me he had written you, Mr. BURTON. I wrote at once to him and told him that that subject was always considered an internal, domestic one; that it was not a subject for international consideration. My attitude upon that subject was not solely an American attitude, I told him; but it was international law. In other words, nations could not pretend to govern the internal affairs of other nations.

The PRESIDENT. The query is whether or not we ought not to introduce a resolution.

Mr. WATSON. In view of the position taken by the two members of the council in the absence of the group and speaking for the group, I think it would be proper now for this body to go on record as ratifying and confirming the position taken by our president and our vice president, with reference to their declaration of this unmistakably American principle.

The PRESIDENT. Would you accept that in any definite form, Mr. HOWARD, a resolution that the group approves the statements of the two members of the council?

Mr. HOWARD. Oh, yes.

The PRESIDENT. That it regards the question of immigration as purely a domestic problem, to be decided by each country, according to its own policies?

Mr. HOWARD. I would accept the very words of the president as the motion.

The PRESIDENT. I do not anticipate that they are going to adopt any such provision as that, but our own policy on that subject is unmistakable.

Mr. HOWARD. This would give notice.

Mr. COOPER. Who drew that, Mr. President, and who approved it?

The PRESIDENT. It was this committee on the collective life of States. I have no idea who drew that.

Mr. SABATH. Mr. President, though I have been a member of the Committee on Immigration for over 20 years, and known as one who favors a liberal immigration law, I will say right now that I have always insisted that it is a purely domestic proposition, and that we should not be dictated to by any nation, but our policy should be that it is for us to say. I believe in fair and humane legislation, treating all nationals as fairly as we can, without discrimination; but that is as far as I ever did go, and as far as I feel we should go. Therefore, I second the motion of the gentleman from Nebraska.

Mr. HOWARD. The substance of the motion is the position assumed by the President in his wire and letter.

Mr. MONTAGUE. The two members of the council.

Mr. CHINDBLOM. Should we go a little further, and not only declare our approval of their position, but declare it as the sense of this group?

Mr. PORTER. It might not be out of place to refer to the constitutional provision that gives us exclusive control.

The PRESIDENT. In submitting it over there, I think it would be well to state what the constitutional provision is. I do not know, but that maybe we better have a committee to frame this resolution. We all know what is in our minds.

Mr. HOWARD. I think that would be better.

The PRESIDENT. Shall we submit to vote the question of the general opinion of the group, which is perfectly clear, and then have a committee frame the exact language?

Mr. MONTAGUE. As they sometimes do in the English Parliament. They prove the object and refer it to a committee for the formal language.

The PRESIDENT. Yes. Shall we have a vote on the general proposition?

The motion was put and unanimously carried.

The PRESIDENT. I will ask Mr. CHINDBLOM, Governor MONTAGUE, and Mr. PORTER to frame the language of the resolution, and it might be well to do that at an early date, because it wants to be over there in plenty of time.

Mr. BRITTEN. May I suggest also that Mr. SABATH be on that committee?

The PRESIDENT. Mr. SABATH as well, a committee of four. The only objection to a larger committee is that it is sometimes hard for them to get together. Let me impress upon you the desirability of framing that at an early date. I think it should be framed a little more carefully than we can do just offhand.

Mr. MAAS. Would not it be well to differentiate this question from others and point out that it is purely domestic and its effect is entirely local, so that later on we may not be confronted with that resolution when Mr. PORTER seeks to press his resolution and the British raise the question that it is a matter of internal revenue?

The PRESIDENT. There is a clear distinction between the two, I think.

Mr. MONTAGUE. We have had that principle involved in several cases. The subjects of religion and education have been brought up, and I think the Americans have generally taken the ground that it is our domestic and not an international question.

The PRESIDENT. I am inclined to think the sending of such a resolution as that will prevent the presentation to the conference of any radical proposition on this subject.

Further, under the head of unfinished business, this resolution of Mr. BRITTEN'S should come up. Have you a copy of that?

The EXECUTIVE SECRETARY. Yes, sir; the resolution reads:

House Resolution 9205, Seventieth Congress, first session

IN THE HOUSE OF REPRESENTATIVES,

January 12, 1928.

Mr. BRITTEN introduced the following bill, which was referred to the Committee on Foreign Affairs and ordered to be printed.

A bill to authorize an appropriation for the American group of the Interparliamentary Union

Be it enacted, etc., That in order to assist in meeting the annual expenses of the Interparliamentary Union there is hereby authorized an appropriation of $10,000.

The PRESIDENT. That is in general about the expense of the Interparliamentary Union.

The EXECUTIVE SECRETARY. The American group.

The PRESIDENT. Yes. That does not have any specific mention of the expenses of delegates.

Mr. BRITTEN. No; it does not, Mr. Chairman. I felt this way when I introduced that resolution. When I learned that the National Government has never defrayed any part of the annual running expenses of the American group of the Interparliamentary Union, from the purchase of stationery up or down, I introduced this resolution. My thought is, if we are going to continue this body, if it is going to be the representative body of members of the United States Government that it should be, the sum of $10,000 is little enough to come out of the National Treasury for its annual expense.

Mr. HOWARD. Wasn't there an appropriation right along?

Mr. BRITTEN. No.

The PRESIDENT. There have been $6,000 appropriated annually for the activities at Geneva, and Congress did appropriate $50,000 toward the expenses of the twenty-third conference here in 1925. However, that is quite apart from Mr. BRITTEN'S resolution.

Mr. MAAS. Do any of the other governments, the foreign governments, appropriate regularly for the expenses of their representatives?

The PRESIDENT. Oh, yes; particularly the northern countries of Europe, such as Sweden and Denmark.

Mr. CHINDBLOM. I want to suggest that the resolution as it reads would relate to the expenses of the Interparliamentary Union itself and not of the American group.

Mr. BRITTEN. It is intended for the American group alone and solely.

Mr. CHINDBLOM. It will have to be amended.

Mr. WATSON. Is there anything being paid by the particular groups to the general expenses by themselves?

Mr. BRITTEN. Oh, yes. They have always paid their own expenses. This is for the American group itself. You see the difference between the two?

The PRESIDENT. I take it your idea is that this amount should be disbursed under the direction of the American group for whatever purpose they may conclude to be proper?

Mr. BRITTEN. Yes; all expenses; and that might include traveling expenses. It will include small expenses for clerical expense, stationery, office rent, any form of expense that may contribute directly to the American group and to the American group only and not to the main body in Europe.

Mr. BLOOM. How much money did you spend last year or did you have to raise? You say here $10,000?

Mr. BRITTEN. Yes.

Mr. BLOOM. How would that $10,000 be expended? Would that be too much or not enough? What is the average expense?

The PRESIDENT. There are certain expenses which might be incurred right here. I think it would be well to get a certain amount of this literature that they are putting out and circulating, so many numbers. That is one thing. My conjecture is, Mr. BRITTEN, you have in mind paying part at least of the expenses of delegates who go abroad. Is that the fact?

Mr. BRITTEN. If necessary. I will say this, Mr. President. I have made a number of trips with the American group, and have always paid my own way; but then there are other Members of the House who would go, who would like to go, and who should go, who might not be in a position to pay their own traveling expenses, and if that condition presents itself and the American group desire to be represented by certain distinguished gentlemen of the House or Senate, I think that the American group ought to pay their expenses, at least their traveling expenses. It is a small item, and in that way the United States would be assured of proper representation there.

The PRESIDENT. As regards the paying of expenses of the persons going abroad, there are certain considerations about that. Very reluctantly I am compelled to say that some persons have gone abroad and have received a portion of the expenses advanced by the Carnegie Endowment, who have given very little attention to meetings on the other side. It has just been an opportunity for a trip to Europe, and we should have, if the expenses are paid, in whole or in part, under this resolution, some assurance that those who receive the amounts are going to give close attention to the work of the Union in these meetings; I mean to be present and not be absorbed in the attractions of Paris or Berlin, so as to travel around and visit parks and museums, but be regular in their attendance. The Congress will want to know, if we bring this up, just what use is to be made of the money, and we will have to explain that.

I do think, however, that we are justified in asking this as a recognition of the activities of this group. It seems to me so.

Mr. PORTER. Mr. Chairman, laying aside for the moment the inconvenience of paying your own expenses, and I must confess it has been rather inconvenient for me, although I have received substantial help in the matter, there is another element that appeals to me. By attending these conferences in proper form and in a proper way we have opportunities to wield a tremendous influence in world affairs. If we go out as American members, without any official recognition from our Government, we have one-tenth of the prestige we would have if we had back of us the official recognition of our Government, and by providing something to pay our expenses would give us a little more official status, too. It is really much more important, to my view, than it is with regard to the matter of expense. I would suggest that a resolution be put in some concrete form that the president of the American unit should be authorized to designate five or ten members to go, representing the United States Government, and that is to be limited to actual traveling expenses, because you have to eat here just as you do over there, and I think that it should be provided that the actual traveling expenses be paid.

Mr. BRITTEN. In a fixed amount?

Mr. PORTER. Oh, yes; fix the amount. I would limit it to traveling expenses. I think you would get it through the House much easier that way than if you covered all expenses. But the important thing in my mind is this: I can see wonderful possibilities in this matter if we go over there in at least a semiofficial capacity. You go over there more or less as an individual, and you do not have the prestige of this great Government behind you. There are a great many people in the world who want to do things the way America does, because we are among the successful nations, and we carry some weight to these meetings, greater than any of us realize. I am perfectly willing to help out in this matter, and I hope my colleagues on the Foreign Affairs Committee feel likewise about it. But I would limit it to traveling expenses.

The PRESIDENT. That is, you would limit the whole amount to the payment of traveling expenses, and you would not apply it to any other purpose?

Mr. PORTER. Oh, printed matter and documents, clerical work, and things of that sort should be included.

Mr. PURNELL. What form of certificate do you give to the delegates?

The PRESIDENT. A certificate signed by the executive secretary.

The EXECUTIVE SECRETARY. The president and secretary sign the credentials in the form of a credentials card.

Mr. PURNELL. It is not a certificate stating that he is a delegate representing the United States?

The PRESIDENT. The American group of the Interparliamentary Union.

Mr. MONTAGUE. Mr. President, I wish to ask to be excused. I approve of this resolution, but I have a very imperative engagement.

The PRESIDENT. Very well.

Mr. BRITTEN. May I say just one word further, please? My sole desire, in presenting this resolution, is the desire that the United States be properly represented abroad, and I think that great care should be used by the president of the American group and the other officers who select these men to represent us abroad. If this resolution does go through the House finally and $10,000 is appropriated, I hope that you, in your wisdom, will select the men who are especially qualified to represent the United States in debate over there, and not have some of them going over there, as they may have done in the past, on a mere junket at somebody else's expense. I am very earnest about that.

Mr. BLOOM. Would that only apply to the people that the president selects to attend these conferences?

Mr. BRITTEN. Any others, like yourself, for instance, who may desire to go over there and pay their own way, back and forth, may do so. But those who are selected by the president should be especially qualified for that particular duty, and the number is unimportant. Two or three disinguished representatives are vastly superior and of much greater value to our country and to the entire issue than 50 or 60 of them merely going over there for joy rides.

Mr. WATSON. Anyone would have the privilege of debate when he is a delegate?

Mr. BLOOM. Any Member of Congress is entitled to go over there, as I understand it.

The PRESIDENT. There are so many considerations to this that I think that we need to give pretty mature consideration to it, and I would suggest something like this, that there be a committee composed of the members of the Foreign Affairs Committee, Mr. BRITTEN, and perhaps Governor MONTAGUE, to consider this and get this into shape. I think the views presented here are very important. Mr. PORTER'S suggestion that this gives official recognition to our group and gives it a prestige there that it otherwise would not have, is a good suggestion. And then Mr. BRITTEN'S suggestion—he is really the one who initiated this movement—that the delegates should be chosen with a view to their taking part in the proceedings and attending faithfully on the meetings is a good suggestion. Of course, there are a great many who would wish to pay their own expenses.

Mr. BRITTEN. I will say for you, Mr. President, that I think you are entitled to the entire amount, so far as I am concerned, because of the very, very valuable work you have done over there.

The PRESIDENT. I have paid my expenses in going over there.

Mr. CHINDBLOM. I attended the meeting at Copenhagen, which is the only one that I have had the pleasure of attending. My understanding is that we are entitled to 24 votes in the conference?

The PRESIDENT. Yes.

Mr CHINDBLOM. We can send as many delegates as we like, but we get 24 votes. I remember at the conference at Copenhagen the Scandinavian countries had hundreds of them from Stockholm and other Scandinavian countries, but they only had their number of votes.

Mr. BLOOM. Do we ever have 24 votes?

Mr. CHINDBLOM. We always have 24 votes, but we do not have that many delegates. As a matter of fact, they seldom take any formal vote. Everything is usually done by unanimous consent.

Mr. MAAS. I do not think there should be anything in a resolution that we are to make an appropriation for the first two years to send 24 delegates abroad, but we should have assurance that there would be no difference in the designation of the delegates, or as to the number, so that we won't have one set of official delegates and another set of semiofficial delegates, but all delegates would have the same rights.

The PRESIDENT. That would inevitably have to be so. Of course, the idea of Mr. BRITTEN, as he expresses it, is so that we may be assured of having persons go who take a real interest in the proceedings and who will take part in the deliberations.

Mr. PORTER. The reason I suggested 5 or 10 was because I feel confident we could get through the House a resolution providing for that; but if we go in there and say that we were going to send 25, we would not get it through. The real idea is the prestige it would give us.

Mr. BLOOM. Up to now, the Government has really taken no recognition in sending delegates.

The PRESIDENT. No. Well, you have to say that with some qualification. The Government did do something. The President of the United States formally presented an invitation to the conference at Berne in 1924 that the union should come to this country in 1925. He transmitted a letter which was read by our minister to Switzerland before the conference in 1924. So you can hardly say that the United States Government has given no recognition to this union.

Mr. SABATH. And it has appropriated from time to time?

The PRESIDENT. The $6,000 annually for the activities at Geneva.

Mr. PURNELL. I think the Chair would like to entertain a motion, perhaps, that a committee consisting of the five members of the Foreign Affairs Committee who are here, Governor MONTAGUE, Mr. BRITTEN, and with Mr. PORTER as chairman, of course, be appointed to give further consideration to this question, with a view of putting the matter in proper form—if necessary, for the purpose of redrafting the bill.

The PRESIDENT. Would you go further than that in presenting it for approval?

Mr. PURNELL. Well, I assume that that would have to be done by the Foreign Affairs Committee. You mean further presenting it to the American group?

The PRESIDENT. No. My thought would be to present it to the Foreign Affairs Committee.

Mr. CHINDBLOM. With the approval of this group?

The PRESIDENT. Yes; with the approval of this group.

Mr. PURNELL. Then I make such a motion.

Mr. MAAS. I amend that motion, that the membership be composed by the naming of Members and not as members of any committee of the House.

The PRESIDENT. That is, you mean those who are to consider this motion and present it?

Mr. MAAS. No; by name; and not as members of a committee.

The PRESIDENT. Leave it to the Chair to appoint the committee. Of course, the Foreign Affairs Committee have particular advantage, because they are to consider the question of reporting it.

The PRESIDENT. Those in favor of the motion of Mr. Purnell, as amended, will signify the same by saying "aye."

(The motion was put and unanimously carried.)

The PRESIDENT. I want to say that I appreciate the interest being taken in this meeting. This is altogether the largest attendance we have ever had at any meeting.

Mr. CHINDBLOM. Will the Chair appoint that committee now?

The PRESIDENT. I think I had better meditate a bit.

The EXECUTIVE SECRETARY. The argument on the Britten resolution will be found in the CONGRESSIONAL RECORD should you wish to look into the facts. Other groups are supported by their governments in various ways, and so far as we have been able to get that information it is here. This is the CONGRESSIONAL RECORD for February 16, page 3215.

Practically every group of the Interparliamentary Union provides for a grant included in the State budget for the expense of the Union. Many of the groups are supported by Government appropriations. For example, the Danish group received in 1926, 5,400 Danish crowns and a special grant toward the expenses of the northern assembly of delegates. The Estonian group provides from that portion of the State budget entitled international expenditure, official journeys, for the traveling expenses of its delegates. The German group receives a grant of 15,000 reichmarks from the Government, 9,000 of which are turned over to the Geneva office and the balance used for traveling expenses. The Swedish group receives a grant of 15,000 Swedish crowns. The Norwegian group receives 9,000 Norwegian crowns for traveling expenses and 1,200 for administrative expenses. Substantial contributions for the traveling expenses of delegates are received by the Bulgarian groups, the Hungarian, the Italian, Polish Rumanian, Yugoslav, and Czechoslovak groups. A sum of 45,000 French francs is placed at the disposal of the French group. Some of the groups—for example, the Egyptian and the Japanese—are officially constituted by the parliament and the expenses of their delegates automatically paid. The South and Central American groups fall also into this category. It may be now regarded as the exception for the members of the union not to receive contributions toward their traveling expenses."

Mr. President, may I bring up one other matter of business?

The PRESIDENT. Certainly.

The EXECUTIVE SECRETARY. Gentlemen, the fact is, after our Washington conference we were complimented by many groups for the nature of our entertainment, and we were particularly complimented by the French. They wrote gracious letters to many officials of our group. They sent presents to persons who had helped them here, such as guides, interpreters, and other officials. France gave the legion of honor to the president of our group and to the director of the conference.

Now, France has been our host during the last summer. Though not in the best of financial circumstances, France did the best she could, and it was well done. In addition to what has already been said we were taken by special train to Chantilly one Sunday, as some of you will remember. There were many receptions by the President of the Republic, by the president of the Chamber of Deputies, by the secretary of war. We were entertained with a magnificent dinner at the end of the conference. So I have been wondering if there is not something that we of the American group might do that would be gracious and acceptable to the people who were responsible for this entertainment in Paris.

I have in my hands here a book called The Treaty of 1778, and you will notice it is in buff and blue, which were George Washington's colors. It contains the record of the conferences, the plans, the journal of the Congress of September, 1776. It contains the treaties themselves, the treaty of amity and commerce, and the treaty of alliance. The treaty is in English and in French, side by side, and there is the final ratification. I do not know what would have become of this country of ours had it not been for the treaty of 1778. It occurs to me that our group might obtain a few copies of these, that the officials of the group might inscribe their names somewhere, and that copies be presented to the various officials of the French group expressing our appreciation.

Mr. CHINDBLOM. Who publishes that?

The EXECUTIVE SECRETARY. This is published by the French Institute at Washington, and it is printed by Johns Hopkins Press on beautiful paper. It has an introduction by James Brown Scott. It is edited by Monsieur G. Chinard, a distinguished French scholar.

The PRESIDENT. Is it your idea that we should send a few copies of that to the French group?

The EXECUTIVE SECRETARY. Yes.

Mr. CHINDBLOM. Have we, as a group, done anything, even to the extent of sending a letter expressing our appreciation?

The PRESIDENT. I have written myself, personally.

Mr. CHINDBLOM. I mean as a group?

The PRESIDENT. No.

Mr. CHINDBLOM. Have we any funds at all?

The EXECUTIVE SECRETARY. We have $254.20 in the treasury.

Mr. HOWARD. Mr. President, I move that the executive secretary secure the signatures of the delegates to this last conference on 10 copies and send them.

Mr. BLOOM. I would like to make a suggestion. If we are going to do that—this is only a paper cover—why not have copies made and bound in more beautiful covers? We can have the same thing reproduced in leather with a beautiful binding and then present it to them. I think if we are going to present a book it should not be a book in a paper cover.

Mr. HOWARD. I take it for granted that that secretary of ours, so competent in all directions, will attend to those details.

The PRESIDENT. You know, in France there are a great many books—and I have been familiar with them since 1880—that are put forth in paper bindings?

Mr. BLOOM. I mean, if we are going to present them with a book, to present them with a book like that in paper binding might look rather cheap.

The PRESIDENT. Can not we leave that to the secretary?

Mr. CHINDBLOM. I move that it be left to the secretary and the chairman and first vice chairman to obtain a sufficient number of copies of this book, and that we agree to underwrite the expense. I do not know whether we have money enough in the treasury or not.

The PRESIDENT. We have.

Mr. BRITTEN. I agree with Mr. Bloom that this 10 or a dozen books should be well bound.

Mr. PORTER. I agree as to the binding, but we should not put a limit of 10 on this. Whatever is necessary should be left to the secretary.

The PRESIDENT. The motion amounts practically to this: Leave it to the secretary, by communication with the president of the French group, to obtain from him the names of persons to whom a copy of the book should be sent, to provide for a proper binding, and send the copies with the signatures.

Mr. BLOOM. With such signatures as he, in conference with the president and vice president, shall determine.

Mr. HOWARD. I second the motion.

The motion was put and unanimously carried.

Mr. CHINDBLOM. I move that the group express its appreciation for his services during the past year, the very efficient and valuable services, of the president of the group, the executive secretary, and the other officers, and that we tender them this appreciation for their services.

Mr. PURNELL. And in support of that, Mr. President, I want to say, as one of the very humble delegates last summer who sat and listened and said nothing, that it was a real, genuine pleasure when the distinguished president of this group took the platform and spoke.

Mr. CHINDBLOM. It was not my pleasure to be there, but I know of the work of this group, and let me refer to the work of the executive secretary. I hope that the work to be done in connection with the Britten resolution will make it possible that we can find ourselves in a position to pay him a compensation for his work which will be commensurate with its value. If you are ready for the question, I will put it.

Mr. HOWARD. Mr. President, speaking in my capacity as delegate, I want to indorse all that my colleague from Hoosierdom has had to say. Over in Paris, had it not been for the guiding hand of the president of our group, I would have been lost every day in the maze of intricacies incident to conducting a conference in foreign languages; and in all Paris, had it not been for the guiding influence of our secretary, I had been hopelessly involved in a labyrinth of my own ignorance. So I am very grateful to both of them for the services rendered to me, and as I believe, to my friends

Mr. JOHNSON. Might I just add this? The distinguished gentleman is indeed very modest. When I saw him in Paris—I happened to be a member ot the American group—he was speaking more French than a Frenchman, and, although I had been over there and thought I knew some French, he was my very guide. He told me where to go and what to see, and I considered him one of the most conspicuous members over there. Seriously, I enjoyed the meeting tremendously. It was a wonderful thing to me to rub elbows with those boys over there, and to see what they see and get their ideas of us.

Might I add just here that I am very much in favor of sending them something to show our appreciation, for, while voting against us on every occasion, they certainly gave us a wonderful time.

The PRESIDENT. We have not heard from Senator THOMAS, who is here to-day.

Senator THOMAS. I am very glad to be here, I am sure.

The PRESIDENT. I believe that is all the business we have. The meeting stands adjourned.

Whereupon, at 12 o'clock noon, the meeting adjourned.

ARTHUR DEERIN CALL,
Executive Secretary.

HEADSTONES OVER GRAVES OF CONFEDERATE SOLDIERS

Mr. REED of Pennsylvania. Mr. President, I take great pleasure in reporting unanimously from the Committee on Military Affairs the bill (H. R. 10304) authorizing the Secretary of War to erect headstones over the graves of soldiers who served in the Confederate Army and to direct him to preserve in the records of the War Department the names and places of burial of all soldiers for whom such headstones shall have been erected, and for other purposes, and I submit a report (No. 1864) thereon. I desire to say that the report is made unanimously by a very fully attended meeting of the Committee on Military Affairs, and I am instructed by the committee to ask unanimous consent for its immediate consideration.

Mr. HEFLIN. Mr. President, I hope consent will be granted. There has been a suggestion made by some one that these Confederate records should be taken away from the National Capital and referred to the various Southern States. I do not think that would be a good idea. I believe the suggestion made by the Senator from Pennsylvania that the records be kept here is a practice and custom which should be upheld.

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

Mr. HALE. Mr. President, I assume that it will not lead to any debate.

Mr. REED of Pennsylvania. I do not expect any debate on it at all.

Mr. OVERMAN. Mr. President, may I ask the Senator from Pennsylvania if it is not a fact that under a previous administration authority was granted for the erection of headstones over the graves of former Confederate soldiers?

Mr. REED of Pennsylvania. Yes, Mr. President; but those headstones were erected only in the national cemeteries. The bill which I have just reported covers the graves in private cemeteries as well.

Mr. HEFLIN. Mr. President, this work has been done for quite a long time. Former Governor Oakes of my State, an ex-Confederate soldier, had charge of this service; but the terms of the bill now presented cover a broader field and will allow headstones to be erected for Confederate veterans who died and were buried in other places than in national cemeteries.

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

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the Secretary of War is authorized to erect headstones over the graves of soldiers who served in the Confederate Army and who have been buried in national, city, town, or village cemeteries or in any other places, each grave to be marked with a small headstone or block which shall be of durable stone and of such design and weight as shall keep it in place when set and shall bear the name of the soldier and the name of his State inscribed thereon when the same are known. The Secretary of War shall cause to be preserved in the records of the War Department the name, rank, company, regiment, and date of death of the soldier and his State; if these are unknown it shall be so recorded.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CONSTRUCTION OF SEAGOING RETRIEVERS

Mr. REED of Pennsylvania. From the Committee on Military Affairs, I report back favorably with an amendment the bill (H. R. 13931) to authorize an appropriation for the construction of a building for a radio and communication center at Bolling Field, D. C., and I submit a report (No. 1863) thereon.

The bill has been amended so as to provide for the construction of three seagoing retrievers for use of the Air Corps at Panama, at Hawaii, and in the Philippines. Each of the boats will cost about $40,000. They are absolutely necessary to the salvage of airplanes which may fall into the water in those places. The loss of a single bomber costs the United States twice as much as the cost of one of these ships. It is very important that the bill should be passed now, in order to get it into conference and passed before the end of this week.

The bill also carries an authorization for an appropriation of $50,000 for additional expense found to be necessary because of difficult foundation for a barracks which is being built at Fort Wadsworth, N. Y. The original provisions of the bill for construction work at Bolling Field have all been stricken out by the committee. I ask unanimous consent for the present consideration of the bill.

Mr. HALE. Mr. President, will the consideration of the bill lead to debate?

Mr. REED of Pennsylvania. I do not think the consideration of the bill will lead to any debate.

The VICE PRESIDENT. Is there objection to the request of the Senator from Pennsylvania for the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Military Affairs with an amendment to strike out all after the enacting clause and to insert:

That there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, not to exceed $50,000, to be expended for the construction and installation of barracks and the necessary utilities and appurtenances thereto at Fort Wadsworth, N. Y.

SEC. 2. That there is hereby authorized to be appropriated not to exceed $120,000 to be expended by the Secretary of War for the construction or purchase of three heavy seagoing Air Corps retrievers for use in Oahu, Philippine Islands, and Albrook Field, Canal Zone.

The amendment was agreed to.

Mr. BINGHAM. Mr. President, would the Senator from Pennsylvania be willing to add to the authorization for the construction of the three aircraft retrievers an amendment providing that the War Department and the Navy Department shall settle the question of who is responsible for the aerial coast defense?

Mr. REED of Pennsylvania. I would agree to that, but I fear the House of Representatives would not agree to it.

The bill was reported to the Senate as amended, and the amendment was concurred in.

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

The bill was read the third time and passed

The title was amended so as to read: "A bill to authorize appropriations for construction at military posts, and for other purposes."

MEXICAN IMMIGRATION

Mr. HARRIS. I send to the desk an Associated Press dispatch and ask the clerk to read it.

The VICE PRESIDENT. Without objection, the clerk will read, as requested.

The Chief Clerk read as follows:

TWO AMERICANS KILLED BY MEXICAN BANDITS—BODIES OF MINING ENGINEERS FOUND BY TROOPS—HAD BEEN KIDNAPED—SOLDIERS SEEK SLAYERS

MEXICO CITY, February 23 (Saturday).—Dispatches to Excelsior from Guanajuato, capital of the State of that name, say that the bodies of J. M. Underwood and C. C. Aisthrope, Americans, were found by troops and taken to that city.

The two American mining engineers had been captured by bandits and were held for ransom under threat of death.

Underwood and Aisthorpe were said to be officials of the Guanajuato Reduction & Mines Co., whose home office is in Columbus, Ohio. The United States Embassy and consulate general here were seeking confirmation of the newspaper report to-night.

The Excelsior account said that troops were in pursuit of kidnapers. The bandits, guided by a former employee, were said to have crept into the mining camp on Wednesday night while everyone was asleep. They took Underwood and Aisthrope from their quarters and forced them to mount horses and to accompany them on the road toward Santa Ena.

Later they sent back a note to the mine headquarters saying that they would kill the captives unless they were paid a ransom.

The mine where the kidnaping occurred is known as the Bustos mine. Insurgent and bandit activities have been frequent in the mountainous State in which it is situated. It was in another part of Guanajuato that the train of President Emilio Portes Gil was dynamited less than two weeks ago.

COLUMBUS, OHIO, February 22.—C. L. Kurtz, president, and C. J. Kurtz, secretary-treasurer, of the Guanajuato Reduction & Mines Co., of Columbus, were unaware to-night that two of their employees, J. M. Underwood and C. C. Aisthorpe, have been slain by Mexican bandits.

The two officers are on their way to the property in Guanajuato, an employee of the company here said. The home cities of the murdered men are unknown here.

The employee added that recently another employee in Mexico had been kidnaped, but his freedom was effected when a cook at the mining camp paid a bandit chief $15 in American money.

Mr. HARRIS. Mr. President, I wish to say that on December 14, from the Committee on Immigration, there was reported unanimously a bill of which I was the author to place Mexico under the immigration quota, and I shall offer an amendment to place Central and South America under the quota. The Senator from Pennsylvania [Mr. REED] and I have been trying for some time to get the steering committee of the Senate to allow us to take up this bill, but thus far we have not succeeded. I wish to ask the Senator from Kentucky [Mr. SACKETT], the chairman of the steering committee, if he will not try to get the committee to arrange for the consideration of the bill, to which I have referred, within the next few days.

Mr. KING. Mr. President, will the Senator permit an inquiry?

Mr. HARRIS. I am glad to yield.

Mr. KING. Does the Senator think it is pertinent to his inquiry to offer a statement from a newspaper reciting that some bandits happen to be active in Mexico? Is that a reason why there should be exclusion of immigration from Mexico? There are some bandits in the United States.

Mr. HARRIS. The Senator and I differ widely in our views about the matter of Mexican immigration, but I think the dispatch which has been read does have a bearing on the question. American citizens are being killed unlawfully in Mexico. I hope the Senator from Kentucky, the chairman of the steering committee, will allow us to have a vote on the bill to which I have referred before the present Congress shall close.

Mr. SACKETT. Mr. President, in answer to the Senator's inquiry, all I can say is that I will be glad to notify the Senator of the next meeting of the committee, which will take place as soon as the bills now on the list for consideration shall have been disposed of. He can make a statement to the committee, and if he can convince the committee that the bill should be considered, I am confident that appropriate action will be taken.

Mr. HARRIS. May I ask the Senator how many other bills are ahead of the one to which I have referred?

Mr. SACKETT. There are four bills now on the list which have not as yet been disposed of.

Mr. HARRIS. What are they, may I ask?

Mr. SACKETT. The joint resolution providing for a survey of the proposed Nicaraguan canal, of which the Senator from New Jersey [Mr. EDGE] is in charge, the bill providing a farmers' market in the District of Columbia, of which the Senator from Virginia [Mr. GLASS] is in charge, the reapportionment bill, of which the Senator from Michigan [Mr. VANDENBERG] is in charge, and the census bill. They have been set down in that order.

Mr. HARRIS. At present one-third as many immigrants come into this country from Mexico as are allowed under the quota law to come from all the world. I think Congress should pass this bill which would put immigration from Mexico, Central and South America under the quota, just as we do all other countries.

Mr. SACKETT. Of course, the Senator will recognize there are many other Senators who are seeking to have bills in which they are interested placed on the list. I can only suggest that the Senator appear before the committee and make a statement.

Mr. HARRIS. I understand that, and I appreciate the consideration shown me by the Senator from Kentucky [Mr. SACKETT], but if the steering committee will not grant our request and make it the special order of business, the only thing the friends of the measure can do is to try to substitute it for some other bill if we can not secure action any other way. I do not think there is any legislation pending before Congress which is more important to our country. This influx of cheap Mexican labor into our country has increased greatly, the cotton produced, which has brought about the surplus and reduced the price of cotton. Every Mexican that comes here takes the place of some American who needs work, and there are many unemployed at this time. Every bale of cotton they produce has a tendency to bring down the price of all the cotton crop.

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

Mr. HARRIS. I yield.

Mr. HARRISON. I wish to make an inquiry of the chairman of the steering committee. Is the reapportionment bill ahead of the census bill on the program?

Mr. SACKETT. It is.

Mr. HARRISON. The apportionment bill is ahead?

Mr. SACKETT. It comes first.

Mr. HARRISON. The bill providing for the extension of the life of the Radio Commission is not on the program at all, is it?

Mr. SACKETT. That is not on the list at present.

NAVAL APPROPRIATIONS

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 16714) making appropriations for the Navy Department and the naval service for the fiscal year ending June 30, 1930, and for other purposes.

Mr. KING. Mr. President, I have offered an amendment to the pending bill which is on the table. I ask that the clerk may read it.

The VICE PRESIDENT. The clerk will read, as requested.

The CHIEF CLERK. On page 44, at the end of the amendment agreed to on yesterday, it is proposed to insert the following:

Provided, That no part of the appropriations contained in this act shall be used for the maintenance of any officer or enlisted man in the military or naval service in Haiti.

Mr. KING. Mr. President, I ask unanimous consent to have inserted in the RECORD at this point, without reading, excerpts from an article written by me in June, 1927, which discusses some phases of the Haitian question.

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

The native inhabitants of Haiti were almost wholly destroyed following its discovery by Columbus and the Spanish occupation. African slavery was thereafter introduced into Haiti as it was into other islands of the West Indies. Haiti became a French possession in 1697 and so remained until 1801, when its inhabitants, largely negroes, rose in rebellion and under the brilliant leadership of Toussaint L'Ouverture won their independence. In 1804 they established a republic with a liberal constitution, and for more than a century Haiti enjoyed the status of an independent nation, having regular international relations and equality with all the other nations of the civilized world.

However, the history of the Haitian Republic has been marked by internal disturbances and difficulties, substantially of the same character as those found in the history of many other nations, and particularly those of Central and South America. Many nations have had their succession of absolute monarchs, dictators, and constitutional rulers. Some have achieved the republican form of government and lapsed back into a monarchy. Mexico and many of the republics to the south of us have suffered from internal convulsions, and dictators and military juntas have often seized the reins of authority and imposed an arbitrary rule upon the people. Revolutions have not infrequently occurred because of the despotic rule of usurpers, and were in the interest of liberty and the welfare of the people.

AMERICA TAKES POSSESSION

The path leading to political, civil, and economic liberty is a long and hard one, and backward and primitive races only reach the heights through suffering and hardships, and after years and perhaps centuries of travail and sorrow. Haiti, through the years following the establishment of her Government, continued as an independent nation until

the subversion of her Government by the armed seizure and occupation of the country by the United States in 1915. In July, 1915, a revolution occurred in Port au Prince, the capital of Haiti, against President Guillaume-Sam, who had been cruel and despotic. In this revolution neither public nor private property was molested, nor were foreigners interfered with or their property placed in jeopardy. However, in August American war vessels landed marines in Haiti, and occupied all military strategic points and took possession of the Government. Martial law was declared and a military government established under the control of American officers. In my opinion, there was no justification for this attack upon a friendly country and a weak people.

It has been claimed by some that France or Germany was about to take possession of Haiti. The facts do not justify this contention. Nor was the Monroe doctrine involved in any manner. In 1914, and continuously thereafter until the military occupation referred to, the United States had attempted to obtain a treaty similar in terms to that which had placed the United States in control of the Dominican Republic, but the officials of the Republic of Haiti declared that they "would not accept any control of Haitian affairs by a foreign power." In May, 1915, the United States sent a representative with the proposed draft of a convention into which he attempted to have the Haitian Government enter. Under the terms of this instrument, the United States was to "protect Haiti from the aggressions of foreign powers," and Haiti was to permit the establishment by the United States of an important naval and military base in Haiti. Other provisions were submitted which were derogatory to the independence and honor of Haiti. These various proposals were rejected, and, as stated, in July, 1915, forcible military possession was taken by the United States of Haiti. Some of the Haitians attempted to resist and more than 2,500 were killed.

ELECTED BY BAYONETS

While martial law prevailed and Haiti was under the control of military forces of the United States, Dartiguenave was made president, not by the will of the people but through the military pressure of the United States. Immediately after the assumption by Dartiguenave of the office of president, the United States proposed a convention which gave to it the practical control of Haiti, including the control of police, public works, and sanitary affairs. This convention was submitted to the national assembly for their advice and consent. But upon its expressing unwillingness to ratify the convention, the American admiral commanding the marines and warships in the harbor of Port au Prince cut off the salaries of members of the assembly, and announced that the United States would "retain control of Haiti until its desires were accomplished" and that it would forthwith "proceed with the complete pacification of Haiti," meaning that further military operations would be employed in the subjugation of Haiti and her people.

Under pressure of these threats, the national assembly accepted the convention. A new national assembly was elected in 1916 in accordance with the terms of the Haitian constitution. Upon its convening, the United States Government, acting through its naval forces, presented to the assembly a hand-made constitution, and demanded its acceptance by the assembly. Haiti for many years had been governed by a constitution, liberal in form and containing provisions similar to those found in the Constitution of the United States. The people were satisfied with their constitution. There was no desire to have it superceded; and the military control of Haiti by the United States met with the universal opposition of the Haitian people.

One of the provisions of the Haitian constitution prohibited foreigners or foreign corporations from holding land in Haiti. This provision of the constitution was wise, because of the limited area of arable lands and the large population in Haiti. The Haitian people foresaw that if their lands were not protected from foreign acquisition a serious agrarian problem would be presented. The exploitation of Haiti by foreign landowners was designedly interdicted. The Haitian National Assembly refused to accept the new constitution prepared in the United States and delivered to them by the mailed hand of our military forces. Thereupon American marines, acting under instructions from the State Department, forcibly dissolved the national assembly, expelled the members from the legislative chambers and locked the doors in their faces. When the two houses of the assembly met in places other than the regular chambers, they were summarily dispersed at the point of the bayonet.

MARINES RATIFY CONSTITUTION

The American occupation then went through the farce of submitting this new constitution to the terrified inhabitants of Haiti for ratification. There was, in fact, no election; a few votes were cast under the supervision and domination of American marines. It can not be contended that this American-made constitution was ratified by the people of Haiti. A few Haitians voted for ratification, by ballots put into their hands by American marines and deposited in boxes under military surveillance and intimidation.

Upon the dissolution and dispersal of the national assembly, Dartiguenave, assuming dictatorial power, and at the instigation of the American occupation, set up an extraconstitutional council of 21 members appointed by himself. This illegal body, which became his pliant tool, usurped the legislative powers of the national assembly, and continues to this day in its usurpatory acts in defiance of the will of the Haitian people. However, it is the mere creature of the so-called "president" of Haiti, and he and this council of state are controlled by the military forces of the United States, still in possession of Haiti and the Haitian Government. There was thus accomplished a complete subversion of the Haitian Republic and the Haitian constitution.

The convention of 1915, I submit, did not contemplate the overthrow of the Haitian Republic or the cessation of its constitutional functions. It did not contemplate that the United States would subvert the Haitian Republic, or the powers of the national assembly through a puppet dictator under cover of a council of state, supported by the bayonets of the American marines. But, nevertheless, such subversion has been accomplished and still exists.

There has been no election of the national assembly in Haiti since 1916, when it was forcibly dispersed by American marines. The constitutional elections of the national assembly, prescribed in the organic law to be held in 1918, 1920, 1922, 1924, and 1926 have been prevented by the American occupation. Through five terms of the national assembly of Haiti, as prescribed in its constitution, the inhabitants of Haiti have had no parliamentary body to act for them, or to be the organ of the national will. The people have been intimidated to suffering in silence. The few journalists in the country who have dared to protest against the subversion of the political institutions and liberties of the country have been incarcerated for their temerity. There has been a denial of liberty of speech and of the press and of personal and political liberty.

ENTER A NEW PUPPET

Dartiguenave's term of office expired August 12, 1922. The election of his successor was vested by the constitution in the national assembly, but no national assembly had been elected in 1918, 1920, or 1922, as provided by the constitution. The elections were prohibited by the puppet Haitian Government and the military occupation of the United States. Thereupon this illegal council of state, holding no commission from the people of Haiti, undertook, with the approval of the United States, to make Louis Borno President of Haiti. The constitution of Haiti, following the old French precedents, regards the nationality of a son to be that of his father. The constitution, in conformity to this principle of French law, prescribed that the President of Haiti must be the son of a Haitian citizen. Borno's father was not a citizen of Haiti. Therefore he did not possess the qualifications prescribed in the fundamental law to be eligible to the Presidency of Haiti.

Borno, however, was designated in this illegal manner as President of Haiti for the term of four years, as prescribed in the American-made constitution which has never become the legal organic act of the people. Borno's term, even under this illegal tenure, expired in 1926. The American-made constitution of Haiti provided for the election of the President by the national assembly on April 12, 1926. But no national assembly had been elected in 1924 or 1926.

The 10-year term of the convention forced upon Haiti by the United States terminated September 16, 1925, and Borno's illegal tenure as President ended at the same time. The convention of 1915, which was to expire by its own limitation in 10 years, was shortly after its acceptance by the national assembly extended for the additional term of 10 years. Of this extension neither the national assembly nor the Senate of the United States was notified. So far as I can learn, it was done without the knowledge of the people of Haiti or the Congress or the people of the United States.

A FRAUDULENT FAMILY AFFAIR

The conclusion is irresistible that the United States, in collusion with Borno, determined upon his continuance in office after the expiration of his illegal tenure of four years for a further period of four years at least. Accordingly, Borno, acting under the illegal decree of Dartiguenave creating the so-called council of state, in anticipation of the second usurpation of the Presidency in 1926, made provision that the so-called council of state should be made up of his personal friends, retainers, and satellites. He removed 18 of the 21 members of the council of state within the year before the anticipated election and appointed as their successors the nephew of his wife, the nephew of his first wife, his chief of staff, his assistant chief of staff, his secretary, his undersecretary, his secretary of interior, his secretary of agriculture, his secretary of public instruction, his law partner, his chargé d'affaires in Brussels, his chargé d'affaires in Berlin, his attorney at St. Marc, the chief clerk of his foreign relations department, the chief clerk of his interior department, another clerk of his interior department, his inspector general of education, and his president of the land commission. The three other members of the council were also personal appointees of Borno, their appointments having been made more than a year prior to his election. It was this hand-picked "electoral college" which went through the farce of electing Borno for a second usurpatory term on the 12th of April, 1926.

Borno's title (?) to the presidency has been obtained in the manner indicated. He is not the choice of the Haitian people. The Haitian people are practically unanimous in opposition to his illegal and usurpatory acts and to the military occupation of their country by the United States. They resent the presence of American marines, and of Ameri-

can war vessels in their ports, and the presence of an American brigadier general in charge of the American marines, who also represents the Department of State and the United States under the high-sounding title of high commissioner and envoy extraordinary and plenipotentiary of the United States to the Republic of Haiti.

The fact is that Haiti is not now an independent nation, nor does the will of the people now prevail. If American marines were withdrawn from Haitian soil and American war vessels from Haitian waters, Borno and his illegal régime would quickly disappear. Borno is a mere figurehead. His authority is derived from the United States and his position is upheld by a foreign government. He masquerades as president, and he and the high commissioner attempt to maintain the fiction that Borno is the duly elected president of a republic, and that the United States has no authority or power in Haiti, but occupies an unimportant position and acts only in an advisory capacity.

AMERICAN MILITARISTS IN CHARGE

To assume this position is hypocritical and absurd. Americans are in charge of the important positions in the government. They collect and disburse the revenues and control the internal and external policies of Haiti.

The Haitian people contend that American occupation has not been in the interest of the people, that thousands of acres of the best lands in Haiti have been acquired by American corporations, and many thousands of Haitians, fearing American domination, have left their country and sought homes in Cuba and other islands of the Caribbean Sea. They declare that Haitians are being forced from their homes and from lands which they and their forefathers have occupied for generations, because they do not have paper titles to their lands, and in order that they may be disposed of by the unconstitutional government which now exists; and they also assert that heavy taxes and burdens are placed upon the people and that the benefits derived therefrom and from the loans which have been made are not commensurate with the expenditures made by the American occupation and the Borno régime. While conceding that roads have been built and sanitary conditions improved, they insist that the administration of governmental affairs has not been efficient or economical, and that the wishes of the people have not been regarded.

Evidence is not lacking to support the contention of the Haitians that the high commissioner and Borno are attempting to intimidate the judges and make them subservient to the wishes of those in control of the government. The Haitian people feel that they are not free, that they are the victims of a military régime and are under the control of a foreign power. They desire to have their old constitution restored. They desire to elect their own officers and to have a government of their own, and not one forced upon them by any other nation.

For a number of years the United States was in control of the Dominican Republic. American military forces occupied that country and subjected the people to a military rule. Within the past three years our military forces have been withdrawn.

In the Senate I have contended that the United States should withdraw its military forces from Haiti and permit the Haitian people to have a government of their own choosing. I have said that if any possible reason existed to justify the seizure by military forces of Haiti and her government in 1915, that reason has long since disappeared, and that to superimpose a military government upon Haiti, as we are now doing, is unjust to the Haitian people and in violation of the traditions of our country and of the principles upon which it is founded.

I have said that Borno was a mere creature of our military forces, and that he does not represent the Haitian people. I have insisted that Congress take action and provide by suitable legislation for an election at which the Haitian people might choose representatives to a constitutional convention; and that when such convention had drafted a constitution and the same had been approved by the people, and an election of officers held thereunder, our military forces should be withdrawn and the government of Haiti surrendered to the constituted authorities selected by the Haitian people themselves.

* * * * * * *

The time has come for the United States to withdraw from Haiti, and when Congress meets in December I shall offer a measure providing that the Haitians be permitted to adopt a constitution and set up their own government and that our military forces be withdrawn.

Mr. KING. I ask for a vote on the amendment. I discussed the question very fully yesterday.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Utah.

The amendment was rejected.

Mr. HEFLIN. I offer an amendment to be added at the end of the bill.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. At the end of the bill it is proposed to insert the following:

Provided, That no part of the appropriation herein provided shall be used to fly any pennant or banner on the same staff or hoist above the United States flag on any battleship or other vessel in the United States Navy.

Mr. HALE. Mr. President, I hope the Senator will not insist upon bringing this amendment up. It is a matter that will unquestionably cause debate. Already the matter has been presented to the Senate, I think, by a resolution on the subject which has been submitted by the Senator from Kentucky [Mr. SACKETT].

Mr. HEFLIN. I am willing to submit it without debate.

Mr. ASHURST. Mr. President, I have a letter from Captain Dickins, who is at the head of the Chaplain Corps of the United States Navy. I ask that his letter may be read at the desk.

The VICE PRESIDENT. Without objection, the clerk will read.

The Chief Clerk proceeded to read the letter and was interrupted by——

Mr. HALE. I make the point of order that the amendment of the Senator from Alabama is legislation on an appropriation bill.

The VICE PRESIDENT. Unanimous consent has been given to read the letter submitted by the Senator from Arizona [Mr. ASHURST] relative to the amendment offered by the Senator from Alabama.

Mr. BRUCE. Mr. President——

Mr. HEFLIN. The Senator from Arizona has a right to have the letter read in his time if he wants that done.

The VICE PRESIDENT. The clerk will read.

Mr. ASHURST. Mr. President, so many Senators have requested information as to the authorship of this letter that I should say that the author thereof is Captain Dickins, captain of the Chaplain Corps, United States Navy. I ask that the letter be now read.

The Chief Clerk read as follows:

FEBRUARY 18, 1929.

MY DEAR SENATOR: In response to your specific inquiry, asking for as definite information as possible relative to the church pennant in use in the United States Navy, I am herein giving you all the information extant I have been able to secure after two years of research:

The United States Navy church pennant, the meaning of which, and origin and its use, which seems to have been the subject of so much discussion for and against, is a white triangular field, charged with a blue Latin cross (this is not a Roman cross). Its length is three times that of its perpendicular height. The blue cross in length is one-third the length of the pennant, and the total width of the cross one-half of its length. The ordinary pennant is 6 feet in length and 2 feet in width; therefore the blue cross would be 2 feet in length and 1 foot in width.

According to the Navy Code and Signal Book, this pennant "is to be hoisted at the peak or flagstaff at the time of commencing and kept hoisted during the continuance of divine service on board vessels of the Navy." This cross is not, nor has it ever been, the distinct copyrighted property of any denomination, but has been used for many centuries by the great Christian family throughout the world. The oriental or Greek cross used by the Eastern Orthodox Church differs from the Latin cross, in that the arms and staff are of equal length, and is known to us in America in this form as the Red Cross, which, of course, was copied from the cross used by Switzerland.

After careful research I am of the opinion that the church pennant used in the United States Navy was copied somewhat from the church flag in the British Navy. The British church pennant in use to-day differs from the American church pennant in the following particulars: It is triangular in shape, similar to ours. In the first third of the pennant is placed the cross of St. George and the other two-thirds of the pennant is broken up into three horizontal bars of red, white, and blue. During divine service on board a British man-of-war this church pennant is run up alongside the Union Jack at the stern of the ship or is flown from the peak, in practice somewhat similar to our own, with the exception that the Union Jack of the British Navy is not lowered.

The tradition regarding the use of the church pennant carries us back to the organization of the Navy. I have been unable to discover any instructions, regulations, or references relative to the church pennant prior to 1836. In 1836 the church pennant is mentioned as one of the articles in making up a ship's allowance list, and this is again mentioned in 1844. From that time on there is practically no reference to the church pennant up till 1868, when in the Code and Signal Manual of the Navy it definitely states what evidently had been the practice of the Navy for many years prior to that, i. e., that "the church pennant shall be flown above the national ensign during divine service."

One of the earliest definite references in regard to the display of the church pennant is that found in an order issued by Admiral Farragut, as follows:

U. S. FLAGSHIP "HARTFORD,"
Off the City of New Orleans,
April 26, 1862.

Eleven o'clock this morning is the hour appointed for all officers and crews of the fleet to return thanks to Almighty God for His great goodness and mercy in permitting us to pass through the events of the last two days with so little loss of life and blood.

At that hour the church pennant will be hoisted on every vessel of the fleet, and their crews assembled will, in humiliation and prayer, make their final acknowledgment therefor to the Great Dispenser of all human events.

D. G. FARRAGUT,
Flag Officer, Western Gulf Blockading Squadron.

This certainly establishes the use of the church pennant without any question back to that date; but the fact that the pennant was a part of the ship's allowance of every vessel in the fleet and that its use was so commonly known indicates that the custom is not a new one. In a French book of flags published in 1850 we find among the cuts of flags of the United States the church pennant, exactly as we have it to-day.

Desirable as it might be, were we to attempt to trace the origin of the many customs which color our life of to-day, that attempt would end in mystery. So general have they been—even though far-reaching in their effect—no one has thought it necessary in the past to carefully set down the reason or origin of these customs. So it is with the use of the church pennant in the Navy. In the pioneer days of our Navy, much as we probably disliked and distrusted our mother country, we did incorporate many of her naval customs in our naval service, too numerous to mention in this communication, but one of them undoubtedly was the use of the church pennant, and its use has been so much a matter of common knowledge as not to need statement of origin.

Before 1836, when we find the first mention of the church pennant, I doubt if there were many regulations of any kind in the service; consequently it should not be considered strange that explicit instructions have not been written in our naval logs relative to the church pennant and its use, for the same point might be raised regarding other happenings or customs in the Navy. It should be considered sufficient to establish the fact that the use of the church pennant in the Navy is of very early origin in our service, due to the fact that it was well known as far back as 1836, and again was spoken of by Admiral Farragut, showing its position of importance in connection with divine service in the Navy.

When a United States naval vessel is at sea in company with other vessels of the fleet or at anchor in port on Sunday morning, church call is usually sounded at 10 o'clock, and immediately the Stars and Stripes are lowered just sufficiently to permit the church pennant to be run to the peak over it, and there it remains until the completion of divine service, when it is run down and the Stars and Stripes are again run to the peak of the flagstaff as before. This is the only service in connection with which the church pennant is hoisted. When a funeral occurs on board, the church pennant is not used. The Stars and Stripes are half-masted and remain so during the service and until the body has left the ship or has been buried at sea, when the colors are then run to the peak. If a United States vessel is operating alone at sea and not in sight of other vessels, neither the United States colors nor the church pennant is hoisted. The service is simply carried on without these outward evidences.

To quiet the misunderstandings and misconstructions being placed upon the church pennant by overzealous, though perhaps seriously minded members of Protestant Christianity, it may be interesting to note that this pennant had long been in use in the United States Navy by Protestant chaplains prior to the appointment of the first Roman Catholic chaplain in 1888. This chaplain was the Rev. Charles H. Parks. He was the first Roman Catholic chaplain to be appointed in the United States Navy, and it is my belief that for over 80 years prior to this appointment our treasured church pennant had been in use in the Navy. It may also be interesting to note in connection with this that the first chaplain regularly commissioned in the United States Navy was the Rev. William Balch, a Congregationalist. He received his commission, No. 1, in the Chaplains Corps in 1779; and I have no doubt the church pennant was flung to the breeze during the time of his holding divine service.

As Chief of Chaplains, attached to the Bureau of Navigation, Navy Department, Washington, D. C., a clergyman of the Episcopal Church who has seen service in the Navy for over 30 years, I feel a deep sense of gratitude to the gentlemen of the Senate, who, during this past week, definitely indicated their stand in regard to the perpetuity of this simple Christian acknowledgment—the display of the church pennant—of our dependence upon Almighty God through his Son, Jesus Christ. To-day its use may be somewhat governed by old naval custom, but it is my earnest hope that the day be not far distant when, if it be thought necessary to allay all feeling of misunderstanding, definite action shall be taken by the Congress to perpetually provide for the use of this simple acknowledgment of our dependence upon the great Architect of the Universe in both branches of our military service and to assure our millions of Christian people that this cross-emblazoned flag is not the flag of any foreign potentate or any creed or race but simply an evidence that we all are believers in and followers of the Man of Galilee.

Long may it wave and point us to the way of a better and holier living in His name!

Sincerely yours,

C. H. DICKINS,
Captain, Chaplain Corps, United States Navy.

Hon. HENRY F. ASHURST,
United States Senate, Washington, D. C.

Mr. HEFLIN. Mr. President, my amendment reads:

Provided, That no part of the appropriations herein provided shall be used to fly any pennant or banner on the same staff or hoist above the United States flag on any battleship or other vessel in the United States Navy.

I have received perhaps 2,000 letters indorsing my position on this question. Other Senators have received quite a number themselves.

Mr. HALE. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. HALE. I made a point of order on the amendment. That being the case, until the point of order is decided upon——

The VICE PRESIDENT. The point of order is not well taken. The amendment of the Senator is simply a limitation.

Mr. HALE. May I be heard upon that, Mr. President?

Mr. HEFLIN. Mr. President, I suggest to the Senator that he will save time by letting me go on with the amendment, because I want another record vote on the question involved and we may have still another one later on. We may have several before this flag issue is settled, for no question is ever settled until it is settled right. The people in the States from which we come are entitled to see just how we stand on this question.

Mr. President, some Senators, I take it, have called on one of our oldest chaplains—a very old man—and have gotten him to write a letter up here thanking certain Senators who voted to continue the present practice of flying this cross above the United States flag. Senators, that practice is going to be changed. This Senate may not change it, but it will be changed by the United States Senate before this time in 1932. The American people have made up their minds on that question. The American Legion demands this change. I showed you the other day that they had indorsed it. The National Flag Conference, held in Washington, has approved the change to fly the pennant at another place.

We are not seeking to do away with the practice of flying the pennant at religious service on the ships. We are seeking to let the American flag fly, as it has a right to fly, on its own staff, in all its majesty and glory, as the emblem of our national sovereignty. Then fly the pennant at another place. Who can object to that? What does the chaplain say they fly the pennant for? What do others say it is for? To give notice to a passing ship that religious service is being conducted on that ship.

Senators, you are too discerning, I think, to be misled or deceived any longer as to who it is that is insisting on continuing the practice of flying the cross above our flag. Why is it that a certain group is fighting so persistently to prevent the change suggested by the American Legion and other patriotic orders? Why is it that the Roman Catholics here do not want this custom changed? I assert that there is not another government on the earth that flies its church pennant above its national standard. Challenge that statement, any of you. I assert that Great Britain, the mother country, never furnished us such a custom. Great Britain to-day, in flying her religious pennant, flies it, not above the Union Jack, but alongside of it, or below it; and the chaplain himself admits that when it is flown at the peak, it is at the stern of the ship. Why should our flag be pulled down when you want to give notice to a passing ship that you are holding religious service?

Senators, the national flag code, indorsed by the American Legion and by 126 patriotic societies of America, real Americans, indorse the proposition contained in my flag amendment. I want the RECORD to show that it was said here before this vote is taken. In that flag code you will find this provision: "No pennant or banner should fly above the United States flag." That is in the United States flag code, and a resolution was introduced in the House the other day to adopt that code with that provision in it.

Another statement is made by the chaplain in his letter to the junior Senator from Missouri [Mr. HAWES]; that Senator is the one who first had printed in the RECORD a letter on this subject, the same letter that has been read to-day. In that letter the chaplain told the Senator from Missouri, and Senators heard it read here, that frequently when a ship is operating by itself, it does not fly the pennant. It has religious service without hoisting the pennant at all. Then, I ask, what good excuse can be given for pulling our flag down when the chaplain does decide to fly the pennant when another ship comes in sight, a foreign ship, from Italy, or Spain, or some other country? Why pull our flag down from its seat of sovereignty, in order to fly a Roman cross, a cross at least, admittedly a Latin cross, which never has been adopted, as the chaplain has said, by the church people of America as a religious pennant. It has not become the church pennant of America. No church pennant has ever been agreed upon by the religious denominations of the United States. The chaplain admits that. Now, we are asked to pull our flag

over

down to fly a pennant, a Latin cross if you please, that has never been adopted as the church pennant of America.

Senators, when Admiral Farragut ordered the church pennant displayed, he did not say, "Hoist it above the Stars and Stripes." I challenge anyone to show that in his order. He said, "Hoist it," when religious services were held. That is all right. I am not objecting to that. I am willing and the millions I speak for are willing to fly a church pennant during religious services on American battleships, but we want it flown on a staff all its own, where it will not be necessary to lower the United States flag.

A retired naval officer suggested to me, "Why, Senator, if you have to pull the flag down when you have a religious service on board ship, take your flag down off the Senate every morning when your chaplain prays. You let the flag up there continue to fly to the breeze." He says that there is no good excuse for pulling our flag down in order to display a pennant. He insists that the pennant should be flown somewhere else on the ship.

I have shown you some of these things before, and I am going to show them to you again from time to time, because I am fighting a battle here that may take some time to finish. I have just begun to fight. This right of our American flag to fly alone is going to be recognized, and you are going to be asked why you did not vote to recognize that right and fly that pennant at another place on the ship. You will be asked why you did not vote to sustain the position of the American Legion, the National Flag Conference, the national flag code committee, and the Secretary of the Navy, who expressed his willingness to fly the pennant at another place on our ships. I do not apologize or beg leave of any Senator for demanding proper respect and recognition for the American flag. Senators, this is a simple thing that I am asking you to do for our flag.

There is no denying the fact that there is an outside and insidious influence at work here to prevent the passage of a measure to cease flying the cross above the American flag. Senators, that is the best beloved flag in all the world. It represents all that we hold dear. Let us here declare that hereafter that flag shall fly on its own staff, in its own right, with no other flag or pennant above it.

Mr. President, I am surprised at the stand a good many Senators have taken upon this question. I have received letters from their States expressing dissatisfaction and disappointment at the failure of their Senators to vote to permit the American flag to fly first and uppermost on its own staff. I trust that these will now give their support to my amendment.

The VICE PRESIDENT. The Senator's time on the amendment has expired. He has 10 minutes on the bill.

Mr. HEFLIN. I am willing for a vote to be had.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Alabama [Mr. HEFLIN].

Mr. HEFLIN. I ask for the yeas and nays.

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

Mr. CURTIS (when his name was called). I have a general pair with the senior Senator from Arkansas [Mr. ROBINSON], who is necessarily absent from the city attending the funeral of a relative. I transfer that pair to the junior Senator from New Mexico [Mr. LARRAZOLO] and vote "nay."

Mr. GLASS (when his name was called). I have a general pair with the senior Senator from Connecticut [Mr. MCLEAN], who is absent, but I am authorized to vote on this question. I vote "nay."

Mr. BRATTON (when Mr. LARRAZOLO's name was called). I previously announced the necessary absence of my colleague [Mr. LARRAZOLO] on account of illness. If he were present and voting, he would vote "nay" on this question.

Mr. MCKELLAR (when his name was called). I have a general pair with the senior Senator from Wisconsin [Mr. LA FOLLETTE]. Not knowing how he would vote on this question if present, I withhold my vote.

Mr. PHIPPS (when his name was called). On this vote I have a pair with the junior Senator from Georgia [Mr. GEORGE], which I transfer to the junior Senator from New Hampshire [Mr. KEYES] and vote. I vote "nay."

The roll call was concluded.

Mr. JONES. I desire to announce that the junior Senator from New Hampshire [Mr. KEYES] is absent on account of illness. If present and permitted to vote, he would vote "nay."

I also wish to announce the absence of the senior Senator from Minnesota [Mr. SHIPSTEAD] on account of illness.

Mr. GERRY. I desire to announce that the junior Senator from New Jersey [Mr. EDWARDS] is unavoidably absent. If present, he would vote "nay."

Mr. TRAMMELL. I desire to announce that my colleague [Mr. FLETCHER] is unavoidably detained from the Senate.

Mr. WAGNER. I wish to announce that my colleague [Mr. COPELAND] is necessarily absent from the city. If present, he would vote "nay."

Mr. HARRISON. I desire to announce that my colleague [Mr. STEPHENS] is necessarily absent on official business. He has a general pair for the day with the senior Senator from Massachusetts [Mr. GILLETT].

The result was announced—yeas 7, nays 70, as follows:

YEAS—7

Black	Harris	Mayfield	Trammell
Brookhart	Heflin	Sheppard	

NAYS—70

Ashurst	Edge	McMaster	Smith
Barkley	Fess	McNary	Smoot
Bayard	Frazier	Metcalf	Steck
Bingham	Gerry	Moses	Steiwer
Blaine	Glass	Norbeck	Swanson
Blease	Glenn	Norris	Thomas, Idaho
Borah	Goff	Nye	Tydings
Bratton	Gould	Oddie	Tyson
Broussard	Greene	Overman	Vandenberg
Bruce	Hale	Phipps	Wagner
Burton	Harrison	Pittman	Walsh, Mass.
Capper	Hastings	Ransdell	Walsh, Mont.
Caraway	Hawes	Reed, Mo.	Warren
Couzens	Hayden	Reed, Pa.	Waterman
Curtis	Johnson	Sackett	Watson
Dale	Jones	Schall	Wheeler
Deneen	Kendrick	Shortridge	
Dill	King	Simmons	

NOT VOTING—18

Copeland	Howell	McLean	Shipstead
Edwards	Keyes	Neely	Stephens
Fletcher	La Follette	Pine	Thomas, Okla.
George	Larrazolo	Robinson, Ark.	
Gillett	McKellar	Robinson, Ind.	

So Mr. HEFLIN's amendment was rejected.

Mr. TYDINGS. Mr. President, I hold in my hand an authentic drawing of the seven different kinds of crosses, Latin, Patriarchal, Papal, Greek, Maltese, St. Andrews, and Pattee, and also a small cut of the church flag. In order that the RECORD may reflect the real fact and inasmuch as all the drawings are simple and can be easily reproduced, I ask unanimous consent to have these seven crosses printed in the RECORD immediately following my remarks.

Mr. SMOOT. Mr. President, I have no objection to having that done, but under the rule I do not know whether it could be done. Under the joint rule of the Senate and the House, I am very doubtful whether it can be done.

Mr. MOSES. Mr. President, it may be done by order of the Joint Committee on Printing.

Mr. SMOOT. Then let it go to that committee. I think the rule would require that.

Mr. MOSES. In behalf of the chairman of the Joint Committee on Printing, I may say that it will receive prompt attention.

Mr. SMOOT. I have no objection to having it printed in the RECORD, only I want Senators to know what the rule is.

Mr. HEFLIN. Mr. President. I have no objection if I am given consent by the Senate to print in the same RECORD the flag code of the United States—it is not long—with cuts or pictures of the flag in different positions as it appears in the flag code. I have no objection if that arrangement is agreed to, so that all of this information may appear together in the same RECORD.

Mr. MOSES. Both requests should go to the Joint Committee on Printing.

Mr. HEFLIN. Oh, no.

Mr. MOSES. They have to go to that committee anyway under the rule.

Mr. TYDINGS. Mr. President, I renew my request and ask unanimous consent that the crosses referred to be printed immediately following my remarks.

Mr. HEFLIN. Mr. President, unless Senators will give unanimous consent to print the cuts of the American flag and the American Flag Code indorsed by the American Legion, the National Flag Conference, the Flag Code Commission, and 126 patriotic societies, I will object. If I can get consent to print this American Flag Code, as I have suggested, I am willing for the Senator from Maryland to print in the RECORD the crosses he has mentioned.

Mr. MOSES. Mr. President, under the rule the request has to go to the Joint Committee on Printing, anyway. The Senator from Maryland [Mr. TYDINGS] can withhold his remarks for revision until the committee can pass upon both requests. Therefore I ask that they be referred to the Joint Committee on Printing.

Mr. HEFLIN. I object to consent being given to print that list of colors and crosses unless my request is granted.

The VICE PRESIDENT. Objection is made.

Mr. HEFLIN. Mr. President, I send to the clerk's desk and ask to have read in my time a short newspaper article from Canada, together with the writing on the side of the sheet.

Mr. REED of Pennsylvania. Mr. President, who has the floor?

The VICE PRESIDENT. The Senator from Alabama has the floor. Without objection, the clerk will read, as requested.

The Chief Clerk read the newspaper article, as follows:

ROMAN CATHOLICS IN OTTAWA WARNED—CONTINUED PUBLIC SCHOOLS SUPPORT WILL MEAN REFUSAL OF SACRAMENTS

OTTAWA, February 18 (C. P.).—Archbishop Forbes, in a pastoral letter read in all Roman Catholic churches in the Ottawa diocese, announced the refusal of the sacraments to all Roman Catholics who continue to pay school taxes in favor of public schools. The announcement affects 1,346 Roman Catholics assessed as public-school supporters in the capital.

The lengthy pastoral letter reviews the obligation of Catholics to support their own schools. The paragraph which refers in particular to Ottawa diocese reads:

"It can not be permitted under any pretext whatsoever, or under any consideration, that Catholics of this diocese pay their school taxes in favor of public schools in preference to the separate schools, where separate schools exist. To act counter to this discipline renders one unworthy of absolution. It is very painful to witness the large number of Catholics who act thus. We conjure them to return to their duty, whatsoever be the material loss they might sustain. Their action is not only in disobedience to the church of whose laws they can not be ignorant; it is direct cooperation in teaching opposed to the faith; and it is an injustice they commit with regard to their fellow Catholics, whose burden they increase."

Mr. HEFLIN. In longhand writing, on the sheet on which the newspaper article was pasted, appeared the following:

In due course we shall deal with your American public-school system in like manner.

Mr. President, that is a direct Roman Catholic attack upon the public-school system of Canada. Catholics are denied the sacrament if they patronize the public school and pay taxes levied upon them by the government for the support of public schools. The Roman church authority in Canada has defied civil authority and demanded that the citizen of Catholic faith shall refuse to obey the mandates of the Canadian Government. That bold and drastic order was announced by a Roman Catholic archbishop named Forbes. He demands of Catholics that they must refrain from patronizing public schools and that they must refuse to pay taxes along with other citizens levied by the Canadian Government for the support of the public-school system. That clipping was sent to me by some one. I do not know who sent it, but he wrote on the side:

This is what we are going to do for your public-school system in America in due time.

Mr. REED of Missouri. Who wrote it, may I ask the Senator?

Mr. HEFLIN. I do not know who wrote it. I think some Catholic wrote it.

Mr. REED of Missouri. Oh, pshaw!

Mr. HEFLIN. It sounds like some other communications that I have had from Catholics. The Bible speaks about "people" that perish because of lack of knowledge. Italy is a fine example. The Italian people did not know what Mussolini's mission was when he was secretly placed in power by the Pope's lieutenants. They did not know that when he was killing off Protestant leaders and destroying Freemasonry in Italy that he was preparing to deliver the Italian Government and its liberty-loving people into the hands of the Roman Catholic Pope. They did not know that the landmarks of liberty planted deep in the soil of Italy by that great Italian patriot, Garibaldi, were so soon to be removed. Italian leaders have been murdered and Italian liberty is now bound in chains. Secret underground work of the most dangerous and despicable character has brought about Italy's undoing and downfall. The same thing is happening right here. Catholic textbooks taught in parochial schools right here in the United States contain the un-American and deadly doctrine of "union of church and state." I brought that to the attention of the Senate once before, but none of you have condemned it.

I have an amendment here now to the bill in the Senate to furnish free schoolbooks in the District of Columbia, and my amendment provides that it shall apply to public-school children only. I wonder how some Senators will vote on that?

I have another amendment to the same bill, and I shall delight in giving all Senators an opportunity to go on record on that. That amendment provides that no schoolbook that contains language contrary to the position of the United States on the "separation of church and State" shall be taught in any school in the District of Columbia. Let us see how Senators will vote on that. Mr. President, I and other Americans have pointed out time and again things that are being done in the United States to the free institutions of the Government of the United States by the un-American activities of certain Roman Catholics. These things were winked at and went on unchecked in Italy until the crash came and the Government of Italy fell.

I saw Senators vote the second time just a little while ago to compel the pulling down of the United States flag on our battle ships that this cross shall fly above it. Senators, I do not know what it is going to take to wake you up to a full realization and keen appreciation of the dangers that are stalking all around us. Italy—poor, unfortunate Italy—slept and awoke in Roman Catholic chains. Wake up, America; your danger is from within. The Senator from Virginia [Mr. SWANSON] and the Senator from Maine [Mr. HALE] both voted against my flag amendment. Were they in good faith when they voted for a like provision on the cruiser bill, or have they changed?

Mr. SWANSON. Mr. President, does the Senator want to know how I feel about it?

Mr. HEFLIN. Yes.

Mr. SWANSON. If the Senator's proposal is brought up in regular form as a resolution, I am willing to vote that the United States flag shall not be superseded, but I am not willing to vote to put that sort of an amendment on every appropriation bill that may possibly come here.

Mr. HEFLIN. It has not been put on a single one of them yet.

Mr. SWANSON. No; it has not, and I am not going to vote to put it on any appropriation bill.

Mr. HEFLIN. Well, I am glad to hear the Senator say he will vote for it as a separate measure. I have such a measure pending before the Committee on Naval Affairs now. I am going to tell the Senator about it. He is on that committee and the Senator from Maine [Mr. HALE] is chairman of that committee. I am expecting that measure to be reported out. The American people are with me in this matter and some of you Senators are going to find that out. In due time we are going to vote on that measure in this body. Every time this flag question is discussed and every time a vote is had upon it, it helps the people back home in the States to get a better understanding of the situation here. I trust that they may be aroused and become interested enough to ask why Catholic influence can keep that cross flying over the United States flag.

Who is it that is fighting a change in this ridiculous and objectionable system of flying this cross above the Stars and Stripes? Any Protestant? No. Any Jew? No. Any Protestant Italians? No. Who is it? Is it the same group that secretly had the picture of the Catholic rosary printed upon our dollar bill in 1917? [Laughter.] Yes; and some Senators did not know it was on there until I exhibited it to them here in the Senate. There it was as plain as the nose on a man's face.

It was a clever piece of work to slip that Catholic design in and have it printed on the currency of the country, and we Senators did not know it until it was shown to us. Now they have put the Roman cross, or the Latin cross, above our flag, and we have found that out and they do not want us to take it down. They are boasting that they are going to capture America, and when foreign vessels passing our vessels upon the high seas on Sunday see the cross flying above our flag they think that it is only a question of time when the Catholics will control America. So the Catholics do not want the cross disturbed. One of their Senators here the other day referred to "God's authority on earth," and some of you did not know what he was talking about. He was evidently talking about the Pope. They think he is God's authority on earth. I do not accept that doctrine. I am willing for every church to worship as it chooses, but I am against the pernicious and dangerous political activities of the Roman Catholic hierarchy, and that question has got to be met squarely by the people of the United States. Let us lay the facts before the people of the country. Let the people know the truth. Will you, who voted to continue a custom that certain Catholics want continued, tell the people back home why you will not vote to change it for those Americans who want it changed?

Mr. BINGHAM. Mr. President, I rise merely to call the attention of the Senator from Alabama to one fact which he has overlooked. Every day when we have adjourned on the previous day the Chaplain of the Senate comes into the Chamber; and the Vice President, representing the power of the people and the flag of the United States, steps down on a lower step and permits the Chaplain to occupy the place on the higher step and offer prayer. Thus far the Senator from Alabama has offered no objection, and I am very much surprised that he has not, though I presume in the near future he will do so.

Mr. HEFLIN. Mr. President, the Senator from Connecticut has said——

The PRESIDENT pro tempore. The Senator from Alabama can not be recognized. He has already spoken on the bill.

Mr. HEFLIN. Well, Mr. President, I suggest the absence of a quorum. I can do that. [Laughter.]

The PRESIDENT pro tempore. The clerk will call the roll.

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

Ashurst	Frazier	Mayfield	Smoot
Barkley	Gerry	Metcalf	Steck
Bayard	Glass	Moses	Steiwer
Bingham	Glenn	Neely	Stephens
Black	Goff	Norbeck	Swanson
Blaine	Gould	Norris	Thomas, Idaho
Blease	Greene	Nye	Thomas, Okla.
Borah	Hale	Oddie	Trammell
Bratton	Harris	Overman	Tydings
Brookhart	Harrison	Phipps	Tyson
Broussard	Hastings	Pittman	Vandenberg
Bruce	Hawes	Ransdell	Wagner
Burton	Hayden	Reed, Mo.	Walsh, Mass.
Capper	Heflin	Reed, Pa.	Walsh, Mont.
Caraway	Johnson	Robinson, Ind.	Warren
Couzens	Jones	Sackett	Waterman
Curtis	Kendrick	Schall	Watson
Dale	King	Sheppard	Wheeler
Deneen	McKellar	Shortridge	
Edge	McMaster	Simmons	
Fess	McNary	Smith	

The PRESIDENT pro tempore. Eighty-three Senators having answered to their names, a quorum is present. The bill is still before the Senate as in Committee of the Whole and open to amendment. If there be no further amendment to be proposed——

Mr. HEFLIN. I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment offered by the Senator from Alabama will be stated for the information of the Senate.

The CHIEF CLERK. On page 31, at the end of line 26, it is proposed to strike out the figures "$500" and insert in lieu thereof "$600."

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Alabama.

Mr. HEFLIN. Mr. President, I offered that amendment for the purpose of affording me an opportunity to reply to the very brilliant remarks of the Senator from Connecticut [Mr. BINGHAM] about the Vice President stepping aside to permit the Chaplain to step up to his desk where he sits or stands and offer prayer. That is all right. The fact is, however, that there is scarcely room enough up there for two good and stalwart Americans like the Vice President and our splendid Chaplain. Hereafter when the Chaplain steps up there to offer prayer, according to the way the Senator from Connecticut speaks and votes on this question, the United States flag which is still above the Chaplain when he prays in the Senate should be pulled down.

Is it the desire of some Senators to pull our flag down when religious services are being held? Have we a conflict here already between the American flag and the Roman flag, and have we an alien government within the American Government?

These are questions that should concern us. Will the time ever come when Protestant and Jewish churches all over the country will have to take down the United States flag and fly the Roman cross when they hold religious services? Will our public schools have to remove the Stars and Stripes in order to put up the banner of a Catholic parochial school?

I can not give my consent to have the American flag pulled down from its place of national sovereignty every time on Sunday somebody wants to give notice to a passing ship that religious service is being held.

O Mr. President, Judge Rice, of my State, a very able and distinguished man, once said, "When you play with the deep feeling of State or national sentiment you are playing with fire." There is, thank God, a nation-wide sentiment of profound respect and deep devotion for that flag. Most Americans love it and would be willing to die for it. We can not show it too much respect. We can not exalt it above its deserts. Is it not entitled to fly undisturbed at the top of its own staff? The South, the land of Lee, calls on the North, the land of Grant, to unite in settling this question for all time—that no flag or emblem shall require Old Glory to be pulled down to give it room above it.

This smart Roman trick that has been put over us in our Navy, which puts this cross above our flag, makes us the only country in all the world where the flag of national sovereignty is lowered to put a pennant or banner above it. I deny that the custom of flying a pennant or banner above our flag came from the mother country. Great Britain does not fly a pennant above her flag, and Great Britain does not lower the Union Jack to fly a pennant above it. The pennant is flown alongside of it or below it. If England ever did fly a cross above her flag it was before she broke away from Catholic rule and before she became a Protestant country. We now are the only country that lowers the flag on a ship to put a banner or a pennant above it, to give notice to passing ships that religious services are being held thereon.

Senators, again I express my deep regret and grave concern about the vote just recorded in the Senate against the rights of our American flag.

The opposition to the United States flag's right to be first and uppermost on its own staff on American battleships can not longer be disguised.

Why did you Senators vote to-day against giving to our national flag the recognition it deserves and is entitled to? Of what political influence is it that they are afraid? I want the people back home in the States of those who voted that way to ask them, "Are you afraid of the Catholic influence and the Catholic vote? We know they will punish you if you do not do their bidding at Washington, but we Protestants and Jews and others are getting tired of your political fear of and truckling to Roman Catholics who are seeking to control America, we want you to stand for what is right. If the Catholic suggests something that is good for America vote for it, but if he is wrong dare to say so. But above all things be a statesman, and a true American, and do not permit anybody to make you prove recreant in your respect, devotion, and unyielding obligation and loyalty to the red, white, and blue—the American flag."

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Alabama.

The amendment was rejected.

The bill was reported to the Senate as amended.

The PRESIDENT pro tempore. The question is on concurring in the amendments adopted as in Committee of the Whole. With the exception of the amendment on which a separate vote was reserved by the Senator from Maine [Mr. HALE], without objection, the amendments will be concurred in. The question now recurs on concurring in the amendment adopted as in Committee of the Whole, upon which a separate vote was reserved by the Senator from Maine.

Mr. HALE. That is the amendment relative to the marines in Nicaragua.

Mr. HEFLIN. What is that amendment about?

The PRESIDENT pro tempore. It is the amendment proposed by the Senator from Washington [Mr. DILL].

Mr. KING. I suggest the absence of a quorum, so that all Senators may be here.

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

Ashurst	Fess	McNary	Simmons
Barkley	Frazier	Mayfield	Smith
Bayard	Gerry	Metcalf	Smoot
Bingham	Glass	Moses	Steck
Black	Glenn	Neely	Steiwer
Blaine	Goff	Norbeck	Stephens
Blease	Gould	Norris	Swanson
Borah	Greene	Nye	Thomas, Idaho
Bratton	Hale	Oddie	Thomas, Okla.
Brookhart	Harris	Overman	Trammell
Broussard	Harrison	Phipps	Tydings
Bruce	Hastings	Pittman	Tyson
Burton	Hawes	Ransdell	Vandenberg
Capper	Hayden	Reed, Mo.	Wagner
Caraway	Heflin	Reed, Pa.	Walsh, Mass.
Couzens	Johnson	Robinson, Ark.	Walsh, Mont.
Curtis	Jones	Robinson, Ind.	Warren
Dale	Kendrick	Sackett	Waterman
Deneen	King	Schall	Watson
Dill	McKellar	Sheppard	Wheeler
Edge	McMaster	Shortridge	

The PRESIDENT pro tempore. Eighty-three Senators having answered to their names, a quorum is present.

Mr. HALE obtained the floor.

Mr. JONES. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Maine yield to the Senator from Washington?

Mr. HALE. If the Senator will allow me, I merely wish to state that I have asked for a separate vote on this amendment, and I ask for the yeas and nays when the vote comes.

Mr. JONES. Mr. President, on yesterday afternoon, when this amendment was before the Senate, I voted for it. I should like to see the marines out of Nicaragua just as soon as is possible, consistent with the policies of the country and with what seems to be the wise thing to be done down there. I thought about this question, however, considerably during the evening, and I feel satisfied that we can depend upon the President of the United States—either the present President or the President who is to be inaugurated within a few days—to do the wise thing, the proper thing, and the patriotic thing. I do not

have personal knowledge with reference to the conditions in Nicaragua. So, Mr. President, I propose to change my vote if there is a roll call on this amendment and vote against its adoption.

The PRESIDENT pro tempore. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. REED of Pennsylvania, Mr. BINGHAM, Mr. BRATTON, and other Senators called for the yeas and nays, and they were ordered.

Mr. HARRISON. Mr. President, I should like to get some light on this proposition. I do not see the chairman of the Committee on Foreign Relations [Mr. BORAH] here. He voted to bring out the marines. The distinguished senior Senator from Virginia [Mr. SWANSON], the ranking member of the minority on the Foreign Relations Committee, voted to bring out the marines. I do not now recall how the distinguished chairman of the Naval Affairs Committee [Mr. HALE] voted on that proposition.

Mr. HALE. I can very quickly tell the Senator. I voted "nay."

Mr. HARRISON. The Senator has voted "nay" so much that that may be just a habit.

Mr. HALE. Not on this bill, Mr. President.

Mr. HARRISON. But I am wondering if the State Department has raised any objection to this proposition. Of course, if no one on the other side can give us that information, we can not have it. It may be that the Senator from Washington, who now changes his vote, has been caused to change his mind by word coming through some grapevine route that goes up to the residence of the President elect.

Mr. JONES. No, Mr. President; I have not seen the President elect since he came back from the South.

Mr. HARRISON. Then this is no direction to anyone to change his vote?

The PRESIDENT pro tempore. The Secretary will call the roll.

Mr. ASHURST. Mr. President, I simply desire to know how the question arises.

The PRESIDENT pro tempore. The question is on concurring in the amendment made as in Committee of the Whole, proposed by the Senator from Washington [Mr. DILL]. The Secretary will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. GLASS (when his name was called). I have a general pair with the senior Senator from Connecticut [Mr. MCLEAN]. Not knowing how he would vote, I should be disposed to withhold my vote; but I transfer the pair to the Senator from Florida [Mr. FLETCHER] and vote "yea."

Mr. PHIPPS (when his name was called). On this question I have a pair with the junior Senator from Georgia [Mr. GEORGE], which I transfer to the junior Senator from New Hampshire [Mr. KEYES], and will vote. I vote "nay."

The roll call was concluded.

Mr. NYE. The senior Senator from Minnesota [Mr. SHIPSTEAD] is unavoidably absent to-day. I understand that it is possible now to pair him. If present, he would vote "yea." He stands paired with the junior Senator from New Mexico [Mr. LARRAZOLO].

Mr. BLAINE. I desire to announce that my colleague [Mr. LA FOLLETTE] is unavoidably absent, that he has a pair with the junior Senator from New Jersey [Mr. EDWARDS], who is also unavoidably absent, and that if my colleague were present and voting he would vote "yea."

Mr. HARRISON. My colleague [Mr. STEPHENS] is attending a hearing before a committee of the House of Representatives. He is paired with the senior Senator from Massachusetts [Mr. GILLETT]. If my colleague were present and voting, he would vote "yea."

The result was announced—yeas 32, nays 48, as follows:

YEAS—32

Barkley	Dill	McKellar	Robinson, Ark.
Black	Frazier	McMaster	Sheppard
Blaine	Gerry	Mayfield	Simmons
Borah	Glass	Neely	Swanson
Bratton	Harris	Norris	Trammell
Brookhart	Harrison	Nye	Walsh, Mass.
Capper	Heflin	Overman	Walsh, Mont.
Caraway	King	Pittman	Wheeler.

NAYS—48

Ashurst	Fess	Metcalf	Smith
Bayard	Glenn	Moses	Smoot
Bingham	Goff	Norbeck	Steck
Blease	Gould	Oddie	Steiwer
Broussard	Greene	Phipps	Thomas, Idaho
Bruce	Hale	Ransdell	Tydings
Burton	Hastings	Reed, Mo.	Tyson
Couzens	Hawes	Reed, Pa.	Vandenberg
Curtis	Johnson	Robinson, Ind.	Wagner
Dale	Jones	Sackett	Warren
Deneen	Kendrick	Schall	Waterman
Edge	McNary	Shortridge	Watson

NOT VOTING—15

Copeland	Gillett	La Follette	Shipstead
Edwards	Hayden	Larrazolo	Stephens
Fletcher	Howell	McLean	Thomas, Okla.
George	Keyes	Pine	

So the amendment made as in Committee of the Whole was nonconcurred in.

The VICE PRESIDENT. The bill is in the Senate and open to amendment. If no further amendment be proposed, the question is, Shall the amendments be engrossed and the bill be read a third time?

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. HALE. I ask that the clerks be authorized to correct the totals and any clerical errors.

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

APPROPRIATIONS FOR THE WAR DEPARTMENT

The PRESIDENT pro tempore laid before the Senate the following action of the House of Representatives relative to certain amendments of the Senate to House bill 15712, the War Department appropriation bill:

IN THE HOUSE OF REPRESENTATIVES, UNITED STATES,
February 21, 1929.

Resolved, That the House recede from its disagreement to the amendments of the Senate Nos. 16, 28, 29, and 54 to the bill (H. R. 15712) entitled "An act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1930, and for other purposes," and concur therein.

That the House recede from its disagreement to the amendment of the Senate No. 41 and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

"Two million one hundred forty-seven thousand two hundred and eighty-one dollars, and in addition thereto there is hereby made available for this purpose the sum of $224,750 of funds received during the fiscal year 1930 from the purchase by enlisted men of the Army of their discharges and the total sum made available in this act for the Organized Reserves shall remain available until December 31, 1930, and no part of such total sum shall be available for any expense incident to giving flight training to any officer of the Officers' Reserve Corps who shall be found by such agency as the Secretary of War may designate not qualified to perform combat service as an aviation pilot."

That the House recede from its disagreement to the amendment of the Senate No. 52 and concur therein with an amendment as follows:

In line 6 of the matter inserted by said amendment strike out "$25,000" and insert in lieu thereof the following: "$15,000."

That the House recede from its disagreement to the amendment of the Senate No. 55 and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following:

"For bank protection for the control of floods and the prevention of erosion of the Missouri River at and near the town of Niobrara in the State of Nebraska $85,000, said work to be carried on under the control and supervision of the Chief of Engineers of the War Department: *Provided*, That the local interests shall contribute two-thirds of the cost of said work."

That the House recede from its disagreement to the amendment of the Senate No. 56 and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following:

"For bank protection for the control of floods and the prevention of erosion of the Missouri River at and near the town of Yankton in the State of South Dakota $85,000, said work to be carried on under the control and supervision of the Chief of Engineers of the War Department: *Provided*, That the local interests shall contribute two-thirds of the cost of said work."

That the House recede from its disagreement to the amendment of the Senate No. 57 and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following:

"That as a contribution in aid from the United States, in view of the unprecedented conditions obtaining in Conway levee district No. 1, Conway County, Ark., in the reconstruction of the levee along the left bank of the Arkansas River in the said Conway levee district No. 1, as provided under the terms of section 7 of the flood control act, approved May 15, 1928 (45 Stat. 537), authority is hereby granted to the Secretary of War, upon the recommendation and approval of the Chief of Engineers, to relocate all or any part of said levee when in the opinion of the Chief of Engineers such relocation shall be deemed practical and feasible: *Provided*, That the total expense occasioned to the United States by reason of the provisions of this paragraph shall not exceed $20,000."

That the House recede from its disagreement to the amendment of the Senate No. 58 and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following:

"That the Chief of Engineers of the United States Army, under the direction of the Secretary of War, is authorized and directed to make an examination and survey of the Conduit Road from the District of Columbia line to Great Falls, Md., of Cabin John Bridge, and of land contiguous to that part of such road and to such bridge, for the purpose of making recommendations for improving and widening that part of such road and such bridge, and, upon the completion of such examination and survey, to report to Congress the results thereof, together with estimates of the probable cost of carrying out such recommendations, and together also with recommendations as to the amount, if any, which justly should be advanced therefor by the Government of the United States. There is hereby appropriated the sum of $3,000 to carry out the provisions of this paragraph."

That the House recede from its disagreement to the amendment of the Senate No. 59 and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following:

"Upon the filing with the Comptroller General of the United States of evidence establishing to his satisfaction that John W. Stockett has been released by the other party thereto of all claims and demands whatsoever under a certain agreement dated April 11, 1927, and expressly released of the obligation as therein stipulated for the payment of 40 per cent of the amount involved for assistance and expenses in securing compensation from the United States, the sum of $50,000 is hereby appropriated for the payment as hereinafter specified in full settlement of all claims and demands whatsoever arising out of the use by the United States of the Stockett priming device and/or the Stockett breech mechanism on guns, and thereupon there shall be paid under this appropriation the sum of $45,000 to the said John W. Stockett, and the sum of $5,000 shall be paid to and retained by the other party to said agreement as compensation for his services: *Provided*, That if the evidence of release aforesaid is not filed with the Comptroller General of the United States upon his request within the time specified by him this appropriation shall lapse and revert back to the Treasury and be as if no appropriation had been made."

That the House recede from its disagreement to the amendment of the Senate No. 60 and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following:

"For the relief of the following States as a reimbursement or contribution in aid from the United States, induced by the extraordinary conditions of necessity and emergency resulting from the unusually serious financial loss to such States through the damage to or destruction of roads and bridges by the floods of 1927, imposing a public charge against the property of said States beyond their reasonable capacity to bear, and without acknowledgment of any liability on the part of the United States in connection with the restoration of such local improvements, namely: Missouri, $258,418; Mississippi, $628,000; Louisiana, $967,582; Arkansas, $1,800,000; in all, $3,654,000; to be available immediately and to remain available until expended: *Provided*, That such portion of the sums hereby appropriated as will be available for future construction shall be expended by the State highway departments of the respective States with the approval of the Secretary of Agriculture for the restoration, including relocation, of roads and bridges so damaged or destroyed, in such manner as to give the largest measure of permanent relief, under rules and regulations to be prescribed by the Secretary of Agriculture: *Provided further*, That any sum hereby appropriated for any State shall become available when the State shall have actually expended or shall have made available for expenditure a like sum from State funds for the purposes contained herein: *Provided further*, That where any roads or bridges shall be or shall have been constructed of a more expensive type than those which were damaged or destroyed, the appropriation contained herein shall not be used to defray any part of the increase in cost occasioned thereby."

Mr. REED of Pennsylvania. I move that the Senate agree to the amendments of the House to Senate amendments Nos. 41, 52, 55, 56, 57, 58, 59, and 60 to the bill.

The motion was agreed to.

PRESIDENTIAL APPROVALS

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that the President had approved and signed the following acts and joint resolutions:

On February 20, 1929:

S. J. Res. 110. Joint resolution to provide for accepting, ratifying, and confirming the cessions of certain islands of the Samoan group to the United States, and for other purposes.

On February 21, 1929:

S. 200. An act for the relief of Mary L. Roebken and Esther M. Roebken;

S. 584. An act for the relief of Frederick D. Swank;

S. 1121. An act for the relief of Grover Ashley;

S. 2439. An act for the relief of Arthur Waldenmeyer;

S. 2821. An act for the relief of Capt. Will H. Gordon;

S. 5066. An act extending the times for commencing and completing the construction of a bridge across the St. Francis River at or near St. Francis, Ark.;

S. 5452. An act to amend the trading with the enemy act so as to extend the time within which claims may be filed with the Alien Property Custodian; and

S. 5550. An act to authorize the purchase by the Secretary of Commerce of a site, and the construction and equipment of a building thereon, for use as a constant frequency monitoring radio station, and for other purposes.

On February 23, 1929:

S. J. Res. 213. Joint resolution to provide for extending the time in which the United States Supreme Court Building Commission shall report to Congress.

REPORT OF THE DIRECTOR GENERAL OF RAILROADS

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was read and referred to the Committee on Interstate Commerce:

To the Congress of the United States:

I transmit herewith for the information of the Congress the report of the Director General of Railroads for the calendar year 1928.

CALVIN COOLIDGE.

THE WHITE HOUSE, *February 23, 1929.*

(NOTE.—Report accompanied similar message to the House of Representatives.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the House had agreed to the amendment of the Senate to the bill (H. R. 924) for the relief of Joe D. Donisi.

The message also announced that the House had disagreed to the amendments of the Senate to the amendments of the House to the bill (S. 3269) providing for the advancement on the retired list of the Army of Hunter Liggett and Robert L. Bullard, major generals, United States Army, retired, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. JAMES, Mr. FURLOW, and Mr. McSWAIN were appointed managers on the part of the House at the conference.

PROPOSED NICARAGUAN CANAL

Mr. EDGE. I move that the Senate proceed to the consideration of Order of Business 785, Senate Joint Resolution 117, authorizing an investigation and survey for a Nicaraguan canal.

Mr. REED of Missouri. Mr. President, there is a matter of high privilege that I gave notice on yesterday I should call to the attention of the Senate to-day.

Mr. EDGE. Will the Senator permit a vote to be taken on my motion, so that I can lay the joint resolution temporarily aside for his matter of high privilege?

Mr. REED of Missouri. Very well, if that is the understanding.

Mr. DILL. Mr. President, I think if we are going to take up the other matter it should be taken up at this time, rather than take up the Nicaraguan measure and then lay it aside.

Mr. EDGE. Mr. President, there is not any business before the Senate.

Mr. DILL. There will be.

Mr. EDGE. The motion is in order. I should like to have the question put, and then of course I will lay the joint resolution aside for the matter of high privilege in which the Senator from Missouri is interested.

Mr. DILL. That requires unanimous consent.

Mr. EDGE. It does not require unanimous consent for a privileged matter. It comes up anyhow.

The VICE PRESIDENT. The question is on the motion of the Senator from New Jersey.

The motion was agreed to; and the Senate resumed the consideration of the joint resolution (S. J. Res. 117) authorizing an investigation and survey for a Nicaraguan canal.

Mr. REED of Missouri. Mr. President——

Mr. EDGE. I gladly temporarily lay aside the unfinished business for the purpose indicated by the Senator from Missouri.

The VICE PRESIDENT. The unfinished business will be suspended for a question of privilege.

SENATOR FROM PENNSYLVANIA

Mr. REED of Missouri. Mr. President, I should like very much to arrest the attention of Senators for a few minutes. In view of the fact that so many Senators left the Chamber immediately after the vote on the naval appropriation bill, without notice that this matter was coming up at this time, I think it is only fair to them to raise the question of lack of a quorum, so that we may have a full attendance.

The VICE PRESIDENT. The Secretary will call the roll.

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

Ashurst	Edge	McMaster	Shortridge
Barkley	Fess	McNary	Simmons
Bayard	Frazier	Mayfield	Smith
Bingham	Gerry	Moses	Smoot
Black	Glass	Neely	Steck
Blaine	Glenn	Norbeck	Steiwer
Blease	Goff	Norris	Stephens
Borah	Gould	Nye	Thomas, Idaho
Bratton	Hale	Oddie	Trammell
Brookhart	Harris	Overman	Tydings
Broussard	Harrison	Phipps	Tyson
Bruce	Hastings	Pine	Vandenberg
Burton	Hawes	Pittman	Wagner
Capper	Hayden	Ransdell	Walsh, Mass.
Caraway	Heflin	Reed, Mo.	Walsh, Mont.
Couzens	Johnson	Reed, Pa.	Warren
Curtis	Jones	Robinson, Ark.	Waterman
Dale	Kendrick	Robinson, Ind.	Watson
Deneen	King	Schall	Wheeler
Dill	McKellar	Sheppard	

The PRESIDING OFFICER (Mr. McNARY in the chair). Seventy-nine Senators have answered to their names. There is a quorum present.

ADDITIONAL DISTRICT JUDGES

Mr. ROBINSON of Arkansas. Mr. President, will the Senator from Missouri yield to me to submit a request for unanimous consent?

Mr. REED of Missouri. I yield.

Mr. ROBINSON of Arkansas. I will preface my request with a brief statement.

A number of bills on the calendar providing for additional judges and a new circuit to be known as the tenth circuit, which appear to be necessary, have been held up for some time, and no action has been taken on them. I understand that at this time they may be disposed of, and I will state that it is my purpose to ask for the immediate consideration of Orders of Business 1513, 1514, 1515, 1516, 1517, 1518, and 1874.

I ask that the unfinished business be temporarily laid aside, and that these bills be considered, beginning with Calendar No. 1516.

Mr. KING. Mr. President, I was out of the Chamber for a moment; I would like to know what these bills are.

Mr. ROBINSON of Arkansas. I just stated they provide for the appointment of additional judges and for the creation of the tenth circuit. It is represented that the condition of business in these various districts makes this action indispensable. My attention has been called to it by a number of lawyers and judges who are familiar with the condition in these various districts. The congestion of the dockets is alarming.

Mr. KING. Mr. President, I shall not object to the consideration of the bills, although I am opposed to some of them, but I want to submit a very few words concerning the same.

Mr. EDGE. Mr. President, I was out of the Chamber when the Senator from Arkansas made his first request. I understand from the Senator from Utah that he proposes to discuss the matter.

Mr. KING. Very briefly.

Mr. EDGE. I shall be willing to have the unfinished business laid aside if these bills can be passed without debate.

Mr. KING. I shall not take five minutes.

Mr. ROBINSON of Arkansas. I think, in view of that, there should be no objection.

Mr. HEFLIN. Mr. President, we will have to have some night sessions real soon, as there are quite a number of bills on the calendar which ought to be considered. I am interested in the Nicaraguan resolution, if the Senator from New Jersey is going to insist on its consideration. How long will it take to consider these bills?

Mr. ROBINSON of Arkansas. I think it will take only a few minutes—probably not over five minutes.

Mr. EDGE. Assurance has been given that it will take no more than five minutes.

Mr. ROBINSON of Arkansas. No one wants to discuss the subjects involved in these bills except the Senator from Utah, and he has just stated that he will speak very briefly. I myself do not desire to take further time of the Senate.

The PRESIDING OFFICER. The present occupant of the chair will state to the Senator from Arkansas that heretofore an order was made temporarily laying aside the unfinished business. It will not be necessary to repeat that order.

The Senator from Arkansas asks unanimous consent for the immediate consideration of seven bills on the calendar. The clerk will state the first bill.

ADDITIONAL JUDGE FOR SOUTH CAROLINA

The bill (H. R. 12811) to provide for the appointment of one additional district judge for the eastern and western districts of South Carolina was considered as in Committee of the Whole and was read, as follows:

Be it enacted, etc., That the President is hereby authorized to appoint, by and with the advice and consent of the Senate, one additional district judge for the United States District Court for the Eastern and Western Districts of South Carolina, who shall, at the time of his appointment, be a resident and a citizen of the State of South Carolina.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. KING. Mr. President, I voted against this bill as I have not received sufficient information showing that another judge is needed in South Carolina.

ADDITIONAL JUDGE FOR PENNSYLVANIA

The bill (S. 5193) to authorize the President of the United States to appoint an additional judge of the District Court of the United States for the Middle District of the State of Pennsylvania was announced as next in order.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. KING. Mr. President, I may as well now state my general objection to these bills.

Mr. President, a few years ago there was great agitation for an enormous increase in the number of Federal judges. The propaganda in favor of this increase swelled like a mighty tide and invaded the committee rooms of Congress. It was represented that litigants could not procure the trial of their causes; that justice was being denied the people; that the courts were overwhelmed with work and were unable to properly function. It was my opinion then that much of the sentiment back of the demands for additional judges was fictitious and manufactured, in part, by organizations which exert considerable influence in our political life. Congress responded to the propaganda and passed a bill creating, as I now recall, more than 26 additional judges.

Notwithstanding the solemn declarations that the situation throughout the country imperatively required the immediate appointment of this number of additional judges, many of them were not appointed for more than a year. Factional quarrels in the Republican Party delayed the appointments; political considerations seemed to control and determine these important appointments. It was not creditable to the administration that the judiciary was made a political football and that partisan politics and political considerations played no unimportant part in the selection of persons for these judicial places. My information is that some of these appointments were not satisfactory to the people and weakened the Federal judiciary.

It is regrettable that our judicial system can not be removed from politics and that the judges are not selected because of their great ability and their fitness for office.

It is unnecessary to state that the judiciary is perhaps the most important branch of our Government whether State or National. If the people lose confidence in their judges, then our political system is in danger.

Mr. President, since the passage of the act providing for this large number of judges we have passed further measures adding to the large list of Federal judges throughout the country. In my opinion many of these appointments were unnecessary and wholly unjustifiable. Numerous bills are now pending in Congress for additional circuit and district judges. There seems to be a concerted movement backed by rather powerful forces for the creation of additional judicial districts to be followed by the appointment of additional judges.

The Senator from Arkansas has called up for consideration a number of bills providing for additional judges. One of these measures divides the eighth circuit and creates an additional circuit with four circuit judges. Perhaps a few additional judges are required in some parts of the country, but in my opinion there is no necessity for the appointment of all the judges provided for in the bills which we are now acting upon. It is said that the Volstead Act is responsible for the claimed congested condition of the courts, and creates an imperative necessity for a large number of additional judges.

Mr. President, the future will show a diminution in the number of prosecutions under the Volstead Act. Moreover there is reason to believe that subordinate tribunals with judicial powers can be created to try misdemeanors and most of the cases arising under the Volstead Act. There are eminent lawyers who believe that Congress may set up tribunals with authority to try minor offenses. If this view should prevail and tribunals of limited jurisdiction should be provided, then the Federal district courts would be relieved of a considerable part of the work which they are now performing.

Mr. President, it is interesting to note the expedition with which cases are disposed of in the English courts. A judge there will dispose of a half dozen criminal cases within a day, most of them being felonies. We have much to learn in the United States in the matter of judicial procedure. Reforms are

needed in our criminal law and in our criminal procedure, both in our State and Federal courts.

The records brought to the attention of the Judiciary Committee, of which I am a member, show that some of our judges possess executive ability of a very high order. I do not wish to indulge in comparisons or to criticize our courts, but it is a fact which can not be ignored that in some districts the cases are disposed of in a most expeditious manner. I remember when the Judiciary Committee was considering the bill a few years ago providing for more than 25 judges, attention was drawn to the fact that one of the large States constituted but one district with but one district judge, and that he had no difficulty in disposing of all matters brought to his attention. The record shows that the circuit court of the ninth circuit has three judges. The docket in the circuit shows a very large number of cases disposed of, and, so far as I am advised, there is no request for an additional judge. We are about to divide the eighth circuit and give to it and the tenth circuit, which is to be carved from it, a considerable increase in the number of judges.

As I have stated, there may be need for a few additional judges, but there is no necessity for providing so large a number as are given by the pending bill as well as other measures recently passed by Congress.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the President of the United States, by and with the advice and consent of the Senate, is hereby authorized to appoint an additional judge of the District Court of the United States for the Middle District of Pennsylvania, who shall reside in said district and shall possess the same qualifications and have the same powers and jurisdiction and receive the same compensation and allowances as the present judge of said district.

SEC. 2. This act shall take effect upon its approval by the President.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ADDITIONAL JUDGE FOR SOUTH DAKOTA

Mr. ROBINSON of Arkansas. I now ask that the Senate proceed to the consideration of the bill (H. R. 8551) to create an additional judge in the district of South Dakota.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the President of the United States be, and he hereby is, authorized and directed, by and with the advice and consent of the Senate, to appoint an additional judge of the District Court of the United States for the District of South Dakota, who shall reside in said district and whose term of office, compensation, duties, and powers shall be the same as now provided by law for the judge of said district.

SEC. 2. When a vacancy shall occur in the office of the existing judge for said district such vacancy shall not be filled unless authorized by the Congress.

SEC. 3. This act shall take effect upon its approval by the President.

The PRESIDING OFFICER. The amendment previously offered by the Senator from South Carolina [Mr. BLEASE] is withdrawn.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ADDITIONAL JUDGES FOR THE SOUTHERN DISTRICT OF NEW YORK

Mr. ROBINSON of Arkansas. I now ask that the Senate proceed to the consideration of the bill (H. R. 9200) to provide for the appointment of three additional judges of the District Court of the United States for the Southern District of New York.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the President of the United States be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, three additional judges of the District Court of the United States for the Southern District of New York, who shall reside in said district and who shall possess the same powers, perform the same duties, and receive the same compensation as the present district judges of said district.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ADDITIONAL JUDGE FOR THE NINTH JUDICIAL CIRCUIT

Mr. ROBINSON of Arkansas. I now ask unanimous consent for the immediate consideration of House bill 8295, for the appointment of an additional circuit judge for the ninth judicial circuit.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment, on page 1, after line 5, to insert a new section, as follows:

SEC. 2. When a vacancy shall occur, due to the death, resignation, or retirement of the present senior circuit judge of said circuit, such vacancy shall not be filled unless authorized by Congress.

So as to make the bill read:

Be it enacted, etc., That the President be, and is hereby, authorized to appoint, by and with the advice and consent of the Senate, an additional circuit judge for the ninth judicial circuit.

SEC. 2. When a vacancy shall occur due to the death, resignation, or retirement of the present senior circuit judge of said circuit, such vacancy shall not be filled unless authorized by Congress.

Mr. KING. Mr. President, I would like to ask the Senator from Montana a question. This does not provide for another judge, so that when the present incumbent, who may be ill, ceases to act, there will be only three circuit judges?

Mr. WALSH of Montana. The present senior judge, Judge Gilbert, is now approaching 80 years of age; he still does work, however. But upon his death or retirement no successor will be appointed.

Mr. KING. May I say that in the ninth circuit, with three judges, more cases are disposed of than in almost any other circuit in the United States. This indicates what judges can do when they work. I want to compliment the judges of the ninth circuit for their excellent and able service and the great ability which they have exhibited.

Mr. WALSH of Montana. I desire to say that the bill as it came from the House contemplated four permanent judges, but I think they can get along very well with three.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

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

The bill was read the third time and passed.

ADDITIONAL JUDGE, EASTERN DISTRICT OF NEW YORK

Mr. ROBINSON of Arkansas. I ask unanimous consent for the immediate consideration of House bill 14659, to provide for the appointment of two additional judges of the District Court of the United States for the Eastern District of New York.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment, in line 5, after the word "Senate," to strike out the words "two additional judges" and to insert the words "an additional judge" in lieu thereof, so as to make the bill read:

Be it enacted, etc., That the President of the United States be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, an additional judge of the District Court of the United States for the Eastern District of New York, who shall reside in said district and who shall possess the same powers, perform the same duties, and receive the same compensation as the present district judges of said district.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

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

The bill was read the third time and passed.

The title was amended so as to read: "An act to provide for the appointment of an additional judge of the District Court of the United States for the Eastern District of New York."

CREATION OF NEW JUDICIAL CIRCUIT

Mr. ROBINSON of Arkansas. Now, I ask unanimous consent for the present consideration of House bill 16658, to amend sections 116, 118, and 126 of the Judicial Code, as amended, to divide the eighth judicial circuit of the United States and to create a tenth judicial circuit.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. KING. Mr. President, I want to express my disagreement with the committee with respect to that bill. I am in

favor of a division of the eighth circuit and the creation of the tenth. I am not in agreement with the committee in recommending five judges for the eighth, and four for the tenth. As I stated a moment ago, the ninth circuit, which has more business than either of these circuits will have, manages to get along with three judges. By this bill we provide five judges for the eighth circuit after having withdrawn five States therefrom, and propose to give to the new circuit four judges. In my opinion, four judges would be ample for the ninth circuit, and three for the tenth.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment, on page 4, line 6, after the words "St. Louis," to insert the words "Kansas City," so as to make the bill read:

Be it enacted, etc., That section 116 of the Judicial Code, as amended (U. S. C., title 28, sec. 211), is amended to read as follows:

"SEC. 116. There shall be 10 judicial circuits of the United States, constituted as follows:

"First. The first circuit shall include the districts of Rhode Island, Massachusetts, New Hampshire, Maine, and Porto Rico.

"Second. The second circuit shall include the districts of Vermont, Connecticut, and New York.

"Third. The third circuit shall include the districts of Pennsylvania, New Jersey, and Delaware.

"Fourth. The fourth circuit shall include the districts of Maryland, Virginia, West Virginia, North Carolina, and South Carolina.

"Fifth. The fifth circuit shall include the districts of Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas.

"Sixth. The sixth circuit shall include the districts of Ohio, Michigan, Kentucky, and Tennessee.

"Seventh. The seventh circuit shall include the districts of Indiana, Illinois, and Wisconsin.

"Eighth. The eighth circuit shall include the districts of Minnesota, North Dakota, South Dakota, Iowa, Nebraska, Missouri, and Arkansas.

"Ninth. The ninth circuit shall include the districts of California, Oregon, Nevada, Washington, Idaho, Montana, Hawaii, and Arizona.

"Tenth. The tenth circuit shall include the districts of Colorado, Wyoming, Utah, Kansas, Oklahoma, and New Mexico."

SEC. 2. Section 118 of the Judicial Code, as amended (U. S. C., title 28, sec. 213; 45 Stat. L. 492; Public, No. 664, 70th Cong.), is amended to read as follows:

"SEC. 118. There shall be in the sixth, seventh, and tenth circuits, respectively, four circuit judges; and in the second and eighth circuits, respectively, five circuit judges; and in each of the other circuits three circuit judges, to be appointed by the President, by and with the advice and consent of the Senate. Each circuit judge shall receive a salary of $12,500 a year, payable monthly. Each circuit judge shall reside within his circuit, and when appointed shall be a resident of the circuit for which he is appointed. The circuit judges in each circuit shall be judges of the circuit court of appeals in that circuit, and it shall be the duty of each circuit judge in each circuit to sit as one of the judges of the circuit court of appeals in that circuit from time to time according to law. Nothing in this section shall be construed to prevent any circuit judge holding district court or otherwise, as provided by other sections of the Judicial Code."

SEC. 3. Section 126 of the Judicial Code, as amended (U. S. C., title 28, sec. 223; U. S. C., Sup. I, title 28, sec. 223), is amended to read as follows:

"SEC. 126. A term shall be held annually by the circuit courts of appeals in the several judicial circuits at the following places, and at such times as may be fixed by said courts, respectively: In the first circuit in Boston, and when in its judgment the public interests require in San Juan, P. R.; in the second circuit, in New York; in the third circuit, in Philadelphia; in the fourth circuit, in Richmond and in Asheville, N. C.; in the fifth circuit, in New Orleans, Atlanta, Fort Worth, and Montgomery; in the sixth circuit, in Cincinnati; in the seventh circuit, in Chicago; in the eighth circuit, in St. Louis, Kansas City, Omaha, and St. Paul; in the ninth circuit, in San Francisco, and each year in two other places in said circuit to be designated by the judges of said court; in the tenth circuit, in Denver, Wichita, and Oklahoma City, provided that suitable rooms and accommodations for holding court at Oklahoma City are furnished free of expense to the United States; and in each of the above circuits terms may be held at such other times and in such other places as said courts, respectively, may from time to time designate, except that terms shall be held in Atlanta on the first Monday in October, in Fort Worth on the first Monday in November, and in Montgomery on the third Monday in October. All appeals and other appellate proceedings which may be taken or prosecuted from the district courts of the United States in the State of Georgia, in the State of Texas, and in the State of Alabama to the circuit court of appeals for the fifth judicial circuit shall be heard and disposed of, respectively, by said court at the terms held in Atlanta, in Fort Worth, and in Montgomery, except that appeals in cases of injunctions and in all other cases which, under the statutes and rules, or in the opinion of the court, are entitled to be brought to a speedy hearing, may be heard and disposed of wherever said court may be sitting. All appeals and other appellate proceedings which may be taken or prosecuted from the district court of the United States at Beaumont, Tex., to the circuit court of appeals for the fifth circuit, shall be heard and disposed of by the said circuit court of appeals at the terms of court held at New Orleans, except that appeals in cases of injunctions and in all other cases which, under the statutes and rules, or in the opinion of the court, are entitled to be brought to a speedy hearing, may be heard and disposed of wherever said court may be sitting."

SEC. 4. Any circuit judge of the eighth circuit as constituted before the effective date of this act, who resides within the eighth circuit as constituted by this act, is assigned as a circuit judge to such part of the former eighth circuit as is constituted by this act the eighth circuit, and shall be a circuit judge thereof; and any circuit judge of the eighth circuit as constituted before the effective date of this act, who resides within the tenth circuit as constituted by this act, is assigned as a circuit judge of such part of the former eighth circuit as is constituted by this act the tenth circuit, and shall be a circuit judge thereof.

SEC. 5. Where before the effective date of this act any appeal or other proceeding has been filed with the circuit court of appeals for the eighth circuit as constituted before the effective date of this act—

(1) If any hearing before said court has been held in the case, or if the case has been submitted for decision, then further proceedings in respect of the case shall be had in the same manner and with the same effect as if this act had not been enacted.

(2) If no hearing before said court has been held in the case, and the case has not been submitted for decision, then the appeal, or other proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders duly entered of record, be transferred to the circuit court of appeals to which it would have gone had this act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in said court.

SEC. 6. This act shall take effect 30 days after its enactment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

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

The bill was read the third time and passed.

Mr. ROBINSON of Arkansas. Mr. President, unquestionably selections for the judiciary should be free from partisan politics. I think it my duty to say that in at least one instance which has come within my observation the present incumbent of the White House, although a Republican, filled a vacancy which arose in the State of Arkansas by the appointment of a prominent Democrat solely, as I believe, for the reason that the appointee was preeminently qualified for the position.

Mr. KING. Mr. President, may I say to my friend from Arkansas that out of the 25 or 26 judges provided for a few years ago, one Democrat only was appointed, as I recall, and that was because there could not be found a suitable Republican lawyer in the entire State.

JUDGE FRANCIS A. WINSLOW

Mr. WALSH of Montana. Mr. President, the measure on the calendar next preceding the last one referred to by the Senator from Arkansas [Mr. ROBINSON] is a joint resolution which came from the House. When it was reached on being reported on the last call of the calendar an objection was made to its consideration by the Senator from South Carolina [Mr. BLEASE]. The joint resolution, it seems to me, merely asks of this body a courtesy for the House of Representatives. It relates to an investigation of the conduct of a Federal judge in the State of New York. It does not seem to me the merits of the matter are before us at all. The House is desirous of carrying on an investigation during the recess, but is powerless to do so, except upon the adoption of such a joint resolution as this. The House, having asked this of us, it seems to me that the Senator from South Carolina should give his consent. I ask unanimous consent for the present consideration of the joint resolution (H. J. Res. 425) providing for an investigation of Francis A. Winslow, United States district judge for the southern district in New York.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana for the present consideration of House Joint Resolution 425?

Mr. GLASS. Mr. President, I would like to inquire of Senators who have had longer observation and more experience than I if it is usual for one House or both Houses of Con-

gress to investigate a Federal judge? I had supposed that the method of dealing with matters of that kind was by impeachment.

Mr. NORRIS. That is what this is.

Mr. WALSH of Montana. This looks to a possible impeachment. The ordinary procedure is for the House to refer to the Judiciary Committee charges in this kind of a matter. If the Judiciary Committee feel that there is a basis for an impeachment, they so recommend and prepare the articles of impeachment. This is preliminary—looking to the possible impeachment or the advisability of impeachment.

Mr. GLASS. Then it is not unusual?

Mr. WALSH of Montana. No; it is the regular procedure, except——

Mr. NORRIS. It is unusual in that the ordinary impeachment takes place while Congress is in session. The House desires, in the interest of the expedition of business, that the committee shall do its work during the recess. The House not being a continuing body, the joint resolution must be passed in order that they may have authority to do it.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. J. Res. 425) providing for an investigation of Francis A. Winslow, United States district judge for the southern district of New York, which was read, as follows:

Whereas certain statements against Francis A. Winslow, United States district judge for the southern district of New York, have been transmitted by the Speaker of the House of Representatives to the Judiciary Committee: Therefore be it

Resolved, etc., That LEONIDAS C. DYER, CHARLES A. CHRISTOPHERSON, ANDREW J. HICKEY, GEORGE R. STOBBS, HATTON W. SUMNERS, ANDREW J. MONTAGUE, and FRED H. DOMINICK, being a subcommittee of the Committee on the Judiciary of the House of Representatives, be, and they are hereby, authorized and directed to inquire into the official conduct of Francis A. Winslow, United States district judge for the southern district of New York, and to report to the Committee on the Judiciary of the House whether in their opinion the said Francis A. Winslow has been guilty of any acts which in contemplation of the Constitution are high crimes or misdemeanors requiring the interposition of the constitutional powers of the House; and that the said special committee have power to hold meetings in the city of Washington, D. C., and elsewhere, and to send for persons and papers, to administer the customary oaths to witnesses, all process to be signed by the Clerk of the House of Representatives under its seal and be served by the Sergeant at Arms of the House or his special messenger; to sit during the sessions of the House until adjournment sine die of the Seventieth Congress and thereafter until said inquiry is completed, and report to the Committee on the Judiciary of the House of the Seventy-first Congress.

SEC. 2. That said special committee be, and the same is hereby, authorized to employ such stenographic, clerical, and other assistance as they may deem necessary, and all expenses incurred by said special committee, including the expenses of such committee when sitting in or outside the District of Columbia, shall be paid out of the contingent fund of the House of Representatives on vouchers ordered by said committee, signed by the chairman of said committee: *Provided, however*, That the total expenditures authorized by this resolution shall not exceed the sum of $5,000.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

POINTS OF HISTORIC INTEREST IN THE NATIONAL CAPITAL

Mr. JONES. Mr. President, on yesterday afternoon the senior Senator from Minnesota [Mr. SHIPSTEAD] had to leave the Chamber because he was not feeling well and requested me to report for him a resolution from the Committee on Printing and ask for its immediate consideration. I now submit the report and request the immediate consideration of the resolution. From the Committee on Printing I report back favorably, without amendment, the resolution (S. Res. 312).

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution (S. Res. 312) submitted by Mr. MOSES on January 28, 1929, was read, considered, and agreed to, as follows:

Resolved, That the pamphlet, Points of Historic Interest in the National Capital, with accompanying illustrations, be printed as a Senate document, and that 10,000 additional copies be printed for the use of the Senate document room.

CONSIDERATION OF THE CALENDAR

Mr. SMITH. Mr. President, may I make an inquiry of the Chair? I do not see the majority leader [Mr. CURTIS] here, but I want to know if any arrangement has been made by which we can consider the calendar in the near future.

Mr. EDGE. Mr. President, I can supply second-hand information for the Senator from South Carolina. The Senator from Kansas remarked earlier in the morning in my presence that he hoped to secure unanimous consent for an evening early next week for that purpose.

Mr. KING. Mr. President, I can say to the Senator from South Carolina that I talked with the Republican leader and can assure him that there will be at least two evenings and perhaps one day that will be devoted to the calendar.

Mr. SMITH. There are some matters of importance on the calendar which I am very anxious to have considered and I merely wanted to know if any time had been set aside for a call of the calendar, because I do not want to interfere now with other plans, but I do want to have those matters considered before final adjournment.

SENATOR FROM PENNSYLVANIA

Mr. REED of Missouri. Mr. President, I had announced to the Senate that I intended to call attention to the report of the committee on the Vare case this afternoon. Because of the desire of Senators to have the Nicaraguan canal matter considered I have agreed to postpone the Vare question until Monday, at which time I shall ask the attention of the Senate. I very earnestly invite Senators to read the report of the committee between this time and Monday noon.

PROPOSED NICARAGUAN CANAL

Mr. EDGE. Mr. President, as the Senator from Missouri [Mr. REED] prefers to wait until a later date to present the privileged matter to which he referred, I ask that the unfinished business be laid before the Senate and proceeded with.

The Senate resumed the consideration of the joint resolution (S. J. Res. 117) authorizing an investigation and survey for a Nicaraguan canal.

Mr. EDGE. Mr. President, I have spoken on various occasions on the subject matter of the pending joint resolution and I shall take only a few moments now to restate the object and, in my judgment, the great importance and necessity for expediting its consideration.

The joint resolution provides simply and alone for information. It does not establish any policy at all. It provides that Congress and the country shall be informed through an investigation to be made by the Board of Engineers as to the practicability and feasibility of taking advantage of the right of way which we purchased from the Government of Nicaragua to construct an interoceanic canal across the isthmus at that point; likewise to be given all information as to the feasibility and practicability of increasing the facilities of the Panama Canal. It has been suggested that it might be possible to install a third set of locks at Panama and thus increase the facilities of the Panama Canal approximately one-third.

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

The PRESIDING OFFICER. Does the Senator from New Jersey yield to the Senator from Wyoming?

Mr. EDGE. I yield.

Mr. KENDRICK. I desire to ask the Senator whether or not the right to build a canal granted by the Government of Nicaragua is a perpetual right?

Mr. EDGE. Yes; it is a right given to the United States under what is known as the Bryan-Chamorro treaty, which was negotiated and ratified by the Senate in 1914, according to my recollection.

Mr. KENDRICK. I wonder if the Senator has any maps showing the line of the proposed Nicaraguan canal?

Mr. EDGE. The Isthmian Canal Commission appointed in 1899, as I recall, for the purpose of considering the same general questions, submitted a report to Congress which appears in Senate Document No. 54, volume 7, report 1899–1901. In that report they proposed a route across Nicaragua and at the same time discussed the feasibility of our taking over the Panama Canal, which then had been partially constructed by the French. In the report to which I have referred at length on a previous occasion in the Senate, the commission recommended that the Government proceed with the construction of the Nicaraguan canal, but Congress in its wisdom decided to buy the rights of the French in the uncompleted Panama Canal and complete the same, which, of course, the Senator well knows has been done.

We are now facing this situation which justifies and, in fact, requires the inquiry that I am proposing as chairman of the Committee on Interoceanic Canals. The last report of the Gov-

ernor of the Panama Canal Zone covering the activities up to June 30, 1928, made it perfectly clear that within 10 to 20 years based upon the present business the maximum facilities of the canal would be reached.

Mr. KENDRICK. That would mean even though the facilities of the locks as they are now constituted should be doubled?

Mr. EDGE. No; that means the present facilities. The maximum of the present facilities of the Panama Canal, with the two locks and the water supply now available, based on the business of the past, would be reached in from 10 to 20 years. I might say, supplementing that statement, that a newspaper report from Balboa on February 2 states that the toll collections averaged over $80,000 daily and a total of $2,500,000 in January, which constituted a new month's record for the Panama Canal traffic and exceeds by almost $60,000 in receipts the record made in December, 1928. In other words, the record in January, 1929, demonstrates that the increase in traffic is even going beyond the estimates of the governor in his last report.

Mr. KENDRICK. I was rather surprised to have the limitation of time when we would reach the complete capacity of the Panama Canal placed so far away, because I had reason to believe, from personal inquiries and investigations, that it would reach its full capacity within 5 to 10 years.

Mr. EDGE. I have attempted to be generous in my estimates, but with the continuation of business as demonstrated in January, the Senator's prediction is quite possible of fulfillment.

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

The PRESIDING OFFICER. Does the Senator from New Jersey yield to the Senator from Washington?

Mr. EDGE. I yield.

Mr. DILL. By the placing of additional locks at the canal and keeping them open it is estimated the capacity can be doubled or trebled, is it not?

Mr. EDGE. I think it is estimated, and naturally I would so assume from a layman's standpoint, that it would increase the traffic approximately one-third.

Mr. DILL. My understanding is it can easily be doubled and can probably be trebled, and that the only question is a matter of water supply.

Mr. EDGE. I was about to remark that that is a very important matter. At the present moment we have authorized an expenditure of $12,000,000 to build dams to carry out what is known as the Alhajuela project, in order to insure sufficient water to operate the present facilities of the canal. If we add a third line of locks, the question of whether we can have furnished through any mechanical devices, dams or otherwise, a sufficient water supply to operate the third lock in the canal is a most serious question. The Governor of the Panama Canal Zone, in a personal conference which I had with him a month or so ago while in Washington, stated that it is most important that a very careful investigation of all these possibilities be had to determine our future policy.

Mr. DILL. Is it not a fact that Secretary Davis of the War Department said the facilities could be quadrupled?

Mr. EDGE. They could not be increased at all if we could not get the necessary water.

Mr. DILL. Oh, well, but the fact remains that the water can be obtained up there.

Mr. EDGE. The fact remains on the testimony of the Governor of the Canal Zone himself that he does not know—and no one apparently knows, without a very careful engineering investigation—whether it can be accomplished, and he has asked that the investigation be made.

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

Mr. EDGE. Certainly.

Mr. McKELLAR. The Senator from New Jersey is entirely right about the fact that it is absolutely necessary to have an investigation before it can be determined whether or not the canal can be enlarged at all. In addition to the lack of water supply, the danger of slides will be vastly increased, so many engineers claim, if the canal shall be broadened so as to provide for increased traffic.

The Senator from Wyoming [Mr. KENDRICK] is exactly right when he says that the Panama Canal will be used to its utmost capacity in six or seven years; it will be but a very short time until that happens; and it is absolutely necessary that something should be done at once to provide increased canal facilities.

Mr. EDGE. I am inclined to that opinion, but I did not intend to make any statement that could be seriously questioned as to the future facilities of the canal.

Mr. President, if this be correct—and it is, and can not be successfully disputed—we know perfectly well that it will require at the minimum from 10 to 15 years to construct a new canal. It will require a number of years, even though it were practical, to install third locks; and during the time the third locks were being installed it is well known, as happens in reconstructing any large public enterprise, that the present facilities of the canal to a great extent would be more or less put out of business during the time of construction. So we are faced with a very important decision—an imperative decision, in my judgment—if we are to continue interoceanic canal facilities, of deciding what policy we shall adopt in order to accommodate the world traffic and the commerce of our own country.

The joint resolution, as I have repeatedly said, simply provides for securing the information necessary. We paid $3,000,000 for a right of way across Nicaragua. It is inconceivable to me that Congress should be denied the technical information that would result from an investigation by the engineers as to what it would cost to build the Nicaraguan canal; as to its practicability, either as a sea-level waterway or one with locks, and, in fact, all information relative to the subject. We are certainly not afraid to have information. The mere fact of having information in the possession of the Senate is no criterion as to what the Senate will do, so far as its future policy in building a canal or increasing canal facilities is concerned.

I might point back to the results following the report of the Isthmian Canal Commission, to which I referred a few moments ago. That commission clearly and positively recommended the construction of the Nicaraguan canal, but, I repeat, Congress in its wisdom, after almost years of debate, which was led by the late distinguished Senator from Alabama, Mr. Morgan, decided to complete the Panama Canal at an estimated cost higher than that of the then proposed Nicaraguan Canal.

Mr. KENDRICK. Mr. President——

Mr. EDGE. I yield to the Senator from Wyoming.

Mr. KENDRICK. I should like to ask the Senator if he will not give us some information as to what the right of way across the isthmus includes. I understood him to state a moment ago that it cost the Government $3,000,000.

Mr. EDGE. It cost the Government $3,000,000, which has already been paid.

Mr. KENDRICK. How much territory does that right of way include?

Mr. EDGE. I shall be very glad to enlighten the Senator. The treaty providing for the right of way across Nicaragua provides that the United States may utilize any part of Nicaragua. It is not specified that we shall use any particular section, but the Canal Commission, after making its investigation as to a practical waterway, recommended that the United States Government should enter from the Atlantic through the San Juan River, which is the boundary line between Nicaragua and Costa Rica. This investigation occurred several years before we purchased the right of way.

Mr. KENDRICK. As a result of that recommendation, was the line of the canal limited to the particular tract along the boundary line?

Mr. EDGE. The line of the canal is in no way limited. It may be changed by negotiations, which are provided for in the treaty between Nicaragua and the United States.

Mr. DILL. Mr. President——

Mr. EDGE. I yield to the Senator from Washington.

Mr. DILL. What percentage of the $3,000,000 ever went to the Government of Nicaragua?

Mr. EDGE. I can not answer that question.

Mr. DILL. That goes to the very heart of the manner in which we secured the treaty and the treaty rights. I think the Senator ought to tell us what happened about that.

Mr. EDGE. The treaty was negotiated by the Secretary of State, Mr. Bryan, under the administration of President Woodrow Wilson. The treaty is known as the Bryan-Chamorro treaty.

Mr. DILL. I know all about that, and I know how Chamorro got his position down there, too; but I asked the Senator from New Jersey what became of the $3,000,000? Who got it?

Mr. EDGE. If I may be permitted, without in any way criticizing the Senator from Washington, I desire to say that I can not feel that there is any justifiable reason why any troubles or misunderstandings—if they do exist or have existed—should be loaded on this information-seeking joint resolution. Whatever was done with the money—and I do not know—the fact remains that we have the right of way under a treaty legally entered into and ratified by the Senate of the United States. We are now facing the important decision to which I have referred; and it seems to be only common business sense that the Senate be given the information as to whether it is practicable to build a canal or whether it is not.

Mr. DILL. But the fact is, as the Senator knows, that less than one-third of that money ever went to the Government of Nicaragua.

Mr. EDGE. I have no knowledge whatever on the subject, or I should be very glad, indeed, to give it to the Senator from Washington.

Mr. DILL. The Senator, in other words, does not want to discuss that phase of the question. I will undertake later to do so.

Mr. EDGE. The Senator, of course, can discuss, if he likes, any phase of Nicaraguan relations, but the question does not relate to the subject matter of the pending joint resolution.

Mr. DILL. It relates directly to this whole subject, because it goes to the very treaty rights themselves, and I wanted the Senator to tell us something about that phase of the subject.

Mr. McKELLAR. Mr. President——

Mr. EDGE. I yield to the Senator from Tennessee.

Mr. McKELLAR. I happened to know the late W. J. Bryan very well; we were friends through a long period of years; I thought of him very highly; I think he was an absolutely honest man, as honest as any man in this country, and I do not believe he would have been connected with any shady transaction in connection with the purchase of a right of way over the isthmus of Nicaragua. I should like to hear if there is anything that reflects upon that treaty or the procurement of that treaty. If the Senator knows of anything of that kind, I think he ought to disclose it to the Senate.

Mr. EDGE. Mr. President, I was just going to suggest that the Senator from Washington in his time can discuss that subject, and I am sure the Senate will be glad to listen to anything he may have to say.

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

Mr. EDGE. I yield.

Mr. DILL. I made no reflection on Mr. Bryan. I was trying to get some information from the Senator from New Jersey about how these treaty rights were secured and what was done with the money which we paid for those rights. The Senator from New Jersey does not want to discuss that question.

Mr. EDGE. I am very sorry, but my investigation and my conception of my responsibility as chairman of the Interoceanic Canals Committee have not led me into any research of that kind. My impression of the committee's duty is that it should try to secure for Congress necessary information relative to canal construction, and later it will be for the Congress to decide the policy to be pursued. The right of way is ours, and I assume it was secured entirely openly and above board. So far as the disposition of the money is concerned, I have not the slightest knowledge and have never made the slightest investigation.

Mr. KENDRICK. Mr. President——

Mr. EDGE. I yield to the Senator from Wyoming.

Mr. KENDRICK. Does the Senator know whether the present Government of Nicaragua or any previous government is protesting against our right to build a canal on account of the manner in which the money was disposed of which was paid for the right of way?

Mr. EDGE. I thank the Senator for propounding that question. On the contrary, I am sure that it will interest the Senator to hear a very brief letter which I have received from the present President of Nicaragua. In acknowledging a note of congratulations he writes from Managua, Nicaragua, to me as follows:

> Allow me to present you my appreciation for your kind personal congratulations and the gratitude of the Nicaraguan people for the great service your country has just rendered to Nicaragua—

I probably should have read this letter during the debate on the naval appropriation bill—

> I am ready and willing to cooperate with the Government of the United States in the survey and construction of the Nicaraguan canal. I consider the canal a great service to Nicaragua and humanity.
>
> Very sincerely yours,
>
> J. M. MONCADO.

That letter was written before Mr. Moncado was inaugurated, he being President elect at the time. The former President whom he succeeded, President Diaz, as is well known, has issued various public statements in which he urged the United States to take advantage of the right of way to construct the Nicaraguan canal. Of course, we can not do that until the necessary information shall have been secured.

Mr. President, I am not going to take any further the time of the Senate. I repeat, summarizing, this joint resolution commits the Senate to absolutely no future canal policy; it merely provides for the securing of information just as in the case of an ordinary resolution submitted to the Senate requesting information from a department. In this case, however, of course, it is more or less of an international question; it is likewise an engineering question, and can only be handled by having our engineers go down and make an investigation. I trust Congress will not be denied the information for obtaining which the joint resolution provides.

Mr. DILL. Mr. President, I want to ask the Senator a question about the information which is to be secured. The Senator said that the route of the canal had not been determined. Is it the purpose of the joint resolution to have the engineers finally determine the route of the proposed canal?

Mr. EDGE. The joint resolution provides simply that the engineers shall investigate the proposed canal as suggested under the former report of the Isthmian Canal Commission.

Mr. DILL. However, that report——

Mr. EDGE. If the Senator desires a complete answer, I will endeavor to give it to him. I understand that the Senator from Utah has prepared an amendment in which he proposes that the engineer commission shall have the further power of investigating or recommending, if in their judgment it is wise, any other possible route. I am disposed to accept the amendment, because there is no reason, following my thought, that we should not have all the information that can be obtained.

Mr. DILL. Then it is proposed that the engineers shall determine what route they will recommend?

Mr. EDGE. Most assuredly.

Mr. DILL. Then are they going to tell us what particular lands it will be necessary to purchase, who owns them, and what it will cost in order to acquire the lands which will comprise this route?

Mr. EDGE. If we do not adopt the joint resolution, of course, we will not get any information. If we shall adopt the joint resolution, I assume that we will receive all the information that a board of engineers would think would be helpful in deciding our future program.

Mr. DILL. The Senator is chairman of the committee which has reported the joint resolution. I wanted to know what information it was his intention to secure. I wanted to know something specific about it. Is the Senator going to leave it entirely to the board to say just how much information shall be obtained, or has he any word from the War Department as to what particular information they are going to get?

Mr. EDGE. The Senator can read the text of the resolution. I think it is all set forth there.

Mr. DILL. I understand about that.

Mr. EDGE. The Senator has asked me a question.

Mr. DILL. I have read the resolution.

Mr. EDGE. The Senator may not be familiar with the joint resolution. It is quite complete. Referring first to the Panama Canal the joint resolution provides:

> SEC. 3. The Chief of Engineers, under the direction of the Secretary of War, shall also make an engineering survey and an investigation for the purpose of determining the possibilities and cost of enlarging the Panama Canal to the extent which may be necessary to meet the future needs of interoceanic shipping.

Then in connection with the proposed Nicaraguan canal the joint resolution provides:

> That the President is hereby authorized to cause to be made, under the direction of the Secretary of War and the supervision of the Chief of Engineers, a full and complete investigation and survey for the purpose of revising and bringing down to date the report of the Isthmian Canal Commission transmitted to the Congress December 4, 1901—

Twenty-seven years ago—

> and for the purpose of collecting the additional information and data necessary in order to ascertain (1) the most practicable route—

It does include an investigation as to the most practicable route—

> for an interoceanic ship canal by way of the San Juan River and Great Lake of Nicaragua or by way of any route over Nicaraguan territory, including a suitable harbor at each of the termini thereof; (2) the feasibility and approximate cost of the construction and maintenance of such canal; and (3) the cost of acquiring all private rights, privileges, and franchises, if any, pertaining to such route. The investigation and survey shall be made upon the basis of a canal having a capacity sufficient for the convenient passage of vessels of such tonnage and draft as may reasonably be anticipated.

If the Senator from Washington can add any language to that section that would insure the receipt of information not covered by the section I can not imagine what it can be.

Mr. DILL. Does the Senator think $150,000 will be sufficient to cover all these purposes?

Mr. EDGE. Personally, I doubt it.

Mr. DILL. As the Senator originally introduced the joint resolution it provided an appropriation of $500,000.

Mr. EDGE. I originally introduced the joint resolution calling for an appropriation of $500,000. As I have said, personally

I doubt whether the work can be done with $150,000, but the Secretary of War, as the Senator knows, through a supplementary estimate, said that $150,000, he thought, would be sufficient to undertake the work. It may cost more and probably will.

Mr. DILL. He said that was all that could be used now.

Mr. EDGE. It probably will cost more, but whatever it may cost, I submit that we should have the information.

Mr. DILL. Does not the Senator think the wiser course would be first to determine what it will cost to enlarge the Panama Canal and the feasibility of such enlargement before we enter upon the expenditure of the immense sum necessary to get all the details provided for in the pending joint resolution?

Mr. EDGE. No; I do not. I think it would be very unbusinesslike for the Senate of the United States to determine upon a possible enlargement of the Panama Canal, at a cost of hundreds of millions of dollars, without having before it a complete statement of the facts concerning the possibility of a Nicaraguan canal.

Mr. FESS. Mr. President——

Mr. EDGE. I yield to the Senator from Ohio.

Mr. FESS. I have read the joint resolution, and I do not find anywhere in it a requirement that the commission shall make any recommendation. Even though there were a mandatory requirement that the commission should make a recommendation, that would not mean anything until the Congress had accepted or approved it. So I see no particular objection to the joint resolution on that ground. The commission could not bind Congress or the country in any way.

Mr. EDGE. I have repeatedly stated that, of course, the commission could not bind Congress in the slightest degree. The commission is simply directed to furnish necessary information. Shall Congress have it, or shall they refuse to have it? That is all there is in this joint resolution.

Mr. BURTON obtained the floor.

Mr. FESS. Mr. President, will my colleague yield to the point of no quorum?

Mr. BURTON. I do not care about a quorum.

Mr. FESS. I think the Members of the Senate would like to hear the Senator. I make the point of no quorum.

The PRESIDING OFFICER. The absence of a quorum being suggested, the Secretary will call the roll.

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

Ashurst	Fess	McNary	Simmons
Barkley	Frazier	Mayfield	Smith
Bayard	Gerry	Moses	Smoot
Bingham	Glass	Neely	Steck
Black	Glenn	Norbeck	Steiwer
Blaine	Goff	Norris	Stephens
Blease	Gould	Nye	Swanson
Borah	Greene	Oddie	Thomas, Idaho
Bratton	Hale	Overman	Trammell
Brookhart	Harris	Phipps	Tydings
Broussard	Harrison	Pine	Tyson
Bruce	Hastings	Pittman	Vandenberg
Burton	Hawes	Ransdell	Wagner
Capper	Hayden	Reed, Mo.	Walsh, Mass.
Caraway	Heflin	Reed, Pa.	Walsh, Mont.
Couzens	Johnson	Robinson, Ark.	Warren
Curtis	Jones	Robinson, Ind.	Waterman
Dale	Kendrick	Sackett	Watson
Deneen	King	Schall	Wheeler
Dill	McKellar	Sheppard	
Edge	McMaster	Shortridge	

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

HOUR OF DAILY MEETING BEGINNING TUESDAY

Mr. CURTIS. Mr. President, will the Senator yield to me in order that I may present a proposed unanimous-consent agreement?

Mr. BURTON. I yield.

Mr. CURTIS. I send the proposed agreement to the desk and ask to have it stated.

The PRESIDING OFFICER. The proposed agreement will be stated.

The legislative clerk read as follows:

Ordered, by unanimous consent, That beginning Tuesday, February 26, 1929, the hour of daily meeting of the Senate be 11 o'clock a. m. for the remainder of the present session of Congress.

The PRESIDING OFFICER. Is there objection?

Mr. McKELLAR. May I ask if the proposal has the approval of the minority leader, the Senator from Arkansas [Mr. ROBINSON]?

Mr. CURTIS. Yes; it has.

Mr. ROBINSON of Arkansas. I think it will be necessary to make some such arrangement as that proposed.

The PRESIDING OFFICER. Is there objection to the proposed unanimous-consent agreement?

Mr. HEFLIN. What is it, Mr. President?

The PRESIDING OFFICER. That the hour of daily meeting, commencing with Tuesday, be 11 o'clock in the morning. The Chair hears no objection, and it is so ordered.

UNIFICATION OF RAILROADS

Mr. FESS. Will my colleague yield to me for a few moments?

Mr. BURTON. I yield.

Mr. FESS. Mr. President, earlier in the week I announced that to-day I would make a report on the bill (S. 5817) to authorize the unification of carriers engaged in interstate commerce and for other purposes, on which occasion I would address the Senate on that subject at some length.

While it is a matter of transportation we are discussing now, though it is water transportation instead of land transportation, I think I ought, in the interest of expediency, and out of great regard for my friend the author of the pending resolution, to forego taking the time to address the Senate, but I must ask the privilege of submitting the report, as I had announced I would make it to-day.

Mr. EDGE. I have no objection to that, of course.

Mr. FESS. I ask unanimous consent that I may submit the report of the Committee on Interstate Commerce on railroad unification.

Mr. EDGE. I appreciate very much the Senator's consideration.

Mr. KING. Mr. President, I suggest to the Senator, in view of the importance of this matter, that he give us his views orally in regard to it at an early date.

Mr. FESS. I thank the Senator for the suggestion, because that is precisely what I want to do. I do not think I ought to take the time of the Senate this afternoon, however. I announce that at the earliest convenient moment I shall address the Senate on the unification of railroads.

Mr. KING. I hope the Senator will.

Mr. FESS. I submit the report (No. 1884) and ask that it be received and printed in the RECORD.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The report is as follows:

[S. Rept. No. 1884, 70th Cong., 2d sess.]

Mr. FESS, from the Committee on Interstate Commerce, submitted the following report (to accompany S. 5817):

The Committee on Interstate Commerce, to whom was referred the bill (S. 5817) to authorize the unification of carriers engaged in interstate commerce, and for other purposes, having considered the same, report favorably thereon (S. Rept. 1884) with amendments and recommend that, as amended, the bill do pass.

I. POLICY OF RAILWAY UNIFICATIONS

There are virtually no differences of opinion upon the basic question of policy involved in the bill. Everyone familiar with present-day railroad problems, either from the point of view of the carrier, the shipper, or the public, believes that the carriers and their properties should be consolidated into a limited number of strong, efficient, and well-balanced systems capable of giving the public the service it demands at rates reasonable to the carrier, the shipper, and the public; capable of being operated in a manner to promote the highest efficiency and to render the most dependable service; capable of assuring continued service to the communities that are dependent upon the railroads and of protecting the public that has invested in them; and capable of solving satisfactorily many of the perplexing transportation problems of the present and of meeting the problems of the future as new transportation conditions and necessities arise.

This policy has already been established by the Congress, has been recommended repeatedly by the President, and is indorsed by the Association of Railway Executives, representing primarily the strong carriers, the American Short Line Railroad Association, representing, as the name indicates, the smaller carriers, the National Industrial Traffic League, representing shippers throughout the country, and by economists, transportation experts, and various civic organizations. In addition, the Interstate Commerce Commission has for several years favored legislation along the general lines of that now proposed in order to more effectually carry out the policy and to improve the existing conditions.

In the course of the consideration of the subject by the committee during the sessions of the present Congress and in previous years, extensive public hearings have been held. Representatives of the various organizations above enumerated and others directly or indirectly interested in legislation affecting railroads have been heard. The committee has had the benefit of their testimony on many different aspects of the transportation problem. None of the persons who appeared and testified before the committee has expressed any opposition to the policy of voluntary unifications of railroads. On the contrary, the consensus of opinion seems to be that such a policy is desirable, from the standpoint of the carriers, the shippers, and the public, as well as economic-

ally sound, but that additional legislation, which will permit that policy to be carried out effectively and properly, is necessary.

MESSAGES OF THE PRESIDENT

The need for a more flexible legal machinery for carrying into effect the congressional policy of voluntary unifications has been stressed by both President Harding and President Coolidge. In his address on "The Transportation Problem" at Kansas City, Mo., June 22, 1923, President Harding referred to the consolidation of all the railroads into a small number of systems under rigorous Government supervision as being "a rational, justifiable step, full of promise toward solution"; but he also stated that it is "being seriously proposed that the next step be to further amplify the provisions for consolidation so as to stimulate the consummation."

President Coolidge, in his message to the Congress on December 3, 1924, said, in part:

"In my message last year I emphasized the necessity for further legislation with a view to expediting the consolidation of our railroads into larger systems. * * *

"The consolidations need to be carried out with due regard to public interest and to the rights and established life of various communities in our country. It does not seem to me necessary that we endeavor to anticipate any final plan or adhere to any artificial and unchangeable project which shall stipulate a fixed number of systems, but rather we ought to approach the problem with such a latitude of action that it can be worked out step by step in accordance with a comprehensive consideration of the public interest. Whether the number of ultimate systems shall be more or less seems to me can only be determined by time and actual experience in the development of such consolidations."

In his subsequent messages to the Congress President Coolidge has also urged the passage of legislation to clarify the existing law. In December, 1926, he stated:

"This principle [of railroad consolidations] has already been adopted as Federal law. Experience has shown that a more effective method must be provided. Studies have already been made and legislation introduced seeking to promote this end. It would be a great advantage if it could be taken up at once and speedily enacted. The railroad systems of the country and the convenience of all the people are waiting on this important decision."

In his annual address to the Congress on December 4, 1928, President Coolidge said:

"In previous annual messages I have suggested the enactment of laws to promote railroad consolidations with a view of increasing the efficiency of transportation and lessening its cost to the public. While consolidations can and should be made under the present law until it is changed, yet the provisions of the act of 1920 have not been found fully adequate to meet the needs of other methods of consolidation. Amendments designed to remedy these defects have been considered at length by the respective committees of Congress, and a bill was reported out late in the last session which I understand has the approval in principle of the Interstate Commerce Commission. It is to be hoped that this legislation may be enacted at an early date."

The bill referred to in the message of the President last quoted is the so-called Parker bill (H. R. 12620, 70th Cong., 1st sess.), which is identical in many respects with the bill which this report accompanies. The differences between the two bills are noted elsewhere in this report.

RECOMMENDATIONS OF THE INTERSTATE COMMERCE COMMISSION

The Interstate Commerce Commission has repeatedly urged that paragraphs (4) to (8), inclusive, of section 5 of the interstate commerce act be amended and clarified. In its annual report for 1921 the commission made the following recommendation:

"7. That paragraphs (4) to (8), inclusive, of section 5 of the interstate commerce act be so amended or supplemented as clearly to provide whether and, if so, how voluntary consolidations of carriers may be effected pending ultimate adoption by us of a complete plan of consolidation (p. 58)."

Similar recommendations were made, or adopted by reference, in the commission's annual reports for the years 1922 to 1924, inclusive.

During the period covered by the reports above referred to the commission was proceeding with the tentative plan for consolidation provided for by paragraph (5) of section 5 of the interstate commerce act. This plan was published on August 3, 1921, in 63 I. C. C. 455, as No. 12964, Consolidation of Railroads. The hearings held upon the tentative plan were completed on December 4, 1923, and it was thought at that time that the complete plan could be prepared. In its annual report for 1924 the commission stated that the work of preparing the complete plan was progressing, but in its annual report for 1925 the commission made the following statement:

"In our last report it was noted that the work of preparing the complete plan of consolidation was progressing. On February 4, 1925, we addressed a letter to the chairman of the Senate Committee on Interstate Commerce, in which the majority of the commission expressed doubt as to the wisdom of the provisions of the law which now require us to adopt a complete plan to which all future consolidations must conform. They further stated that they had been impelled to the belief that results as good, and perhaps better, are likely to be accomplished with less loss of time if the process of consolidation is permitted to develop, under the guidance of the commission, in a more normal way. A proposed amendment to section 5 of the interstate commerce act was attached to the letter (p. 13)."

The substance of the amendment to section 5 above referred to was stated in the recommendations of the commission in its annual report for the year 1925, as follows:

"5. That paragraphs (2) to (6), inclusive, of section 5 of the interstate commerce act be amended (a) by omitting therefrom the existing requirement that we adopt and publish a complete plan of consolidation; (b) by making unlawful any consolidation or acquisition of the control of one carrier by another in any manner whatsoever, except with our specific approval and authorization; (c) by giving us broad powers upon application, and after hearing, to approve or disapprove such consolidations, acquisitions of control, mergers, or unifications in any appropriate manner; (d) by giving us specific authority to disapprove a consolidation or acquisition upon the ground that it does not include a carrier or all or any part of its property which ought to be included in the public interest and which it is possible to include upon reasonable terms; (e) by modifying subparagraph (b) of paragraph (6) so that the value of the properties proposed to be consolidated can be more expeditiously determined; and (f) by providing that in the hearing and determination of applications under section 5 the results of our investigation in the proceeding on our docket known as No. 12964, Consolidation of Railroads, may be utilized in so far as deemed by us advisable (p. 72)."

The recommendations above quoted have been repeated in identical language in each annual report of the commission since 1925 and have been embodied in the proposed legislation.

II. NECESSITY FOR THE LEGISLATION

In the administration of the existing law with respect to railway unifications certain difficulties have been encountered which were not contemplated at the time of the enactment of the transportation act of 1920. It has been discovered, for example, that the provisions which were intended to promote voluntary unifications of railroads, recognized by the Congress in 1920 as economically sound and desirable, have had an opposite tendency, due to the fact that some of the conditions imposed at that time were not sufficiently flexible to permit the congressional policy to become operative.

One of the chief obstacles to unifications since the enactment of the transportation act has been the provision imposing upon the Interstate Commerce Commission the duty of preparing and adopting a plan for the consolidation of the railway properties of the continental United States into a limited number of systems. While this provision, which now forms a part of paragraph (4) of section 5 of the interstate commerce act, was intended to form the basis for future unifications and to pave the way for unifications in harmony with the plan, the practical result has been just the opposite. The commission has found it almost impossible to carry out fully the mandate of Congress. Although the commission did prepare a tentative plan in 1921 grouping into 19 systems the Class I carriers, it has never allocated to such systems upwards of 39,000 miles of railroad belonging to the Class II and Class III carriers which forms an important part of the total railway mileage in the United States and it is extremely doubtful whether such an allocation would, if made, serve any very useful purpose. Other obstacles to the completion of the commission's plan are the necessity of making the systems of approximately equal earning power with relation to the values of their properties and of preserving competition "as fully as possible." The railroads, in the absence of the complete plan of the commission, have been unable to proceed with effective regroupings of their properties in the manner contemplated by the Congress at the time of the enactment of the transportation act, and the public has failed to realize the benefits that might reasonably be expected from unifications. There is thus in the present law a clearly expressed desire on the part of the Congress to accomplish a certain result, but an effective method of accomplishing the result is lacking.

Your committee is of the opinion that legislation is necessary in order to remove the uncertainty that surrounds the whole question of railway unifications and to provide a more definite and workable basis for future unifications that will be in the public interest. This opinion is shared by both the Republican and the Democratic members of the committee. Considerable time has been devoted to the discussion and consideration of the various problems involved, and the policies incorporated in the bill have been decided upon only after careful and painstaking study on the part of the members of the committee of the different aspects of the railway unification problem. In all its deliberations the committee has been primarily concerned with the proper and adequate protection of the public interest, and under the provisions of the bill no unifications are to be permitted except those that are determined by the Interstate Commerce Commission to be in the public interest. For the guidance of the commission in making its determinations, definite and clear-cut standards and methods of procedure have been laid down.

OUTLINE OF EXISTING LAW

The existing congressional policy with respect to railway unifications is contained in paragraphs (2), (4), (5), (6), and (8) of section 5 of the interstate commerce act.

Paragraph (2) of section 5 provides that the commission may approve the acquisition of control by one carrier of another carrier or carriers, in any manner not involving the consolidation of such carriers into a single system for ownership and operation, whenever the commission is of opinion, after hearing, that such an acquisition of control will be in the public interest. It was contemplated that this paragraph would be of temporary or limited application.

Paragraphs (4), (5), and (6) of section 5 were intended to provide the permanent basis of railway unifications. These paragraphs are so closely interrelated that they may be treated as a unit and their main provisions briefly summarized as follows:

1. The duty is imposed upon the commission of preparing and adopting a complete plan for the unification of all the railway properties in the continental United States into a limited number of systems.

2. All unifications must be in harmony with and in furtherance of such plan and must be approved by the commission.

3. Each unification must be of such a nature as to unite the railway properties of the carriers who are parties to it into one corporation for ownership, management, and operation.

4. The stocks and bonds of the corporation which is to acquire the properties of two or more carriers pursuant to unification must not exceed the value of such properties as determined by the commission under section 19a of the interstate commerce act.

5. If the commission finds, after a public hearing, that such a proposed unification will promote the public interest, it may authorize and approve it with such modifications and upon such terms and conditions as the commission may prescribe and thereupon the unification may be effected regardless of State laws.

Paragraph (8) of section 5 relieves a carrier seeking to acquire control of another under paragraph (2), and the carriers that are parties to a unification under paragraphs (4), (5), and (6), of section 5, from the prohibitions and restraints imposed by State and Federal laws (including the antitrust laws), in so far as may be necessary to enable them to carry out the orders of the commission under those paragraphs.

DEFECTS OF EXISTING LAW

During the period of more than eight years that the provisions of existing law with respect to railway unifications have been in force very little has been accomplished in the way of carrying out the policy adopted by the Congress. Experience has shown that none of those provisions, with the exception of paragraph (2) of section 5, is capable of effective administration and application. Some of the outstanding defects of the existing law are as follows:

1. Paragraph (2) of section 5 was intended to be applicable only in the cases of acquisitions of control by one carrier of another carrier (through stock ownership or lease) which do not involve a true or substantial unification contemplated by the transportation act. Accordingly, its provisions are wholly inadequate as a means of bringing about such unifications not only from the point of view of the carriers desiring to effectuate the congressional policy of voluntary consolidations, but also from the point of view of the supervision and control by the commission, the protection of minority interests and the interests of other carriers, and, what is of primary importance, the protection and promotion of the interests of the public.

2. The unifications contemplated by the Congress at the time of the enactment of the existing law can not be brought about, for the commission has found it impossible to comply fully with the requirements that it prepare a complete plan for the consolidation of all the railway properties in the United States into a limited number of systems, and the completion of the plan is a prerequisite to the approval of any such unification.

3. Only one type of unification is provided for, namely, a corporate consolidation into one corporation for ownership, management, and operation of the properties of the carriers that are parties to the unification.

4. No provision is made for a procedure under Federal law to be followed by the carriers in bringing about a proposed unification.

5. Unifications under State law are not prohibited.

6. The requirement that the securities of the new corporations shall not exceed the value of the properties sought to be consolidated as ascertained by the commission under section 19a is a condition which has materialy hindered the commission in its preparation of its complete plan.

7. No provision is made for determining the rights and remedies of dissenting stockholders or of the carriers who are not originally joined in a proposed consolidation.

8. Inadequate provision is made for safeguarding the interests of the public.

III. OUTLINE OF THE BILL

The main purposes of the bill are as follows:

(1) To authorize voluntary railroad unifications, but only to the extent that they promote the public interest.

(2) To set up definite and specific standards to be taken into consideration by the Interstate Commerce Commission in determining whether or not a proposed unification will promote the public interest.

(3) To enable the carriers to carry into effect such a unification which has been approved by the commission by establishing a uniform and effective procedure.

(4) To safeguard the interests of all who might be directly or substantially affected by such a unification, especially carriers that are not originally joined in the plan of unification.

(5) To establish an efficient system of supervision by the commission in all cases of proposed unifications.

(6) To provide adequate protection for all dissenting stockholders of the carriers who are parties to a proposed unification by establishing a procedure whereby they may receive just compensation for their stock.

(7) To remove the defects of existing law which have prevented the promotion of the policy of voluntary unifications.

(8) To relieve the commission of the duty of preparing a complete plan for the unification into a limited number of systems of all the railway properties in the continental United States and to substitute a provision directing the commission to make a study of transportation facilities and to prepare one or more tentative plans to be available for its use in passing upon petitions for unification.

(9) To permit the commission under certain circumstances to authorize the acquisition by condemnation of a carrier which was not a party to the the plan if the commission determines that it is in the public interest that such carrier be made a party to a unification.

(10) To prohibit all unifications, including consolidations, mergers, acquisition of properties, and acquisitions of securities, under State or Federal law, except as specifically provided in the bill.

(11) To provide appropriate relief from State and Federal taxation in order to encourage and make possible unifications that will be in the public interest.

IV. DIFFERENCES BETWEEN SENATE AND HOUSE BILLS

The bill which your committee is now reporting out and the bill (H. R. 12620) reported out near the end of the last session by the House committee are identical in almost all respects. There are, however, six substantial differences between the two bills. The first of these relates to the method of acquiring securities; the second, to the type of corporate consolidation to be permitted; the third, to the provisions to be made with respect to voting bonds; the fourth, to the proceedings under paragraph (2) of section 5; the fifth, to carriers not parties to a plan of unification; and the sixth, to the preparation by the commission of a plan of unification. These differences are briefly discussed in the following paragraphs.

ACQUISITION OF SECURITIES

Section 202 (2) of the Senate bill prohibits all unifications (through corporate consolidation, corporate merger, acquisition of properties, or acquisition of securities, directly or through holding companies or other agencies) that are not in accordance with the provisions of the bill or with an order of the commission under paragraph (2) of section 5, but it further provides that the prohibition shall not extend (a) to an acquisition by a carrier of shares of capital stock issued by another carrier in an amount not sufficient to constitute control of such other carrier but that no such shares, except those acquired pursuant to subscription rights, shall be voted on any question relating to unification without the approval of the commission, or (b) to an acquisition by a carrier of additional shares of capital stock issued by another carrier of which control has been previously lawfully acquired. The acquisitions of stock under both (a) and (b), however, are subject to the ordinary provisions of law, State or Federal, applicable thereto, and unless such acquisition is permitted the carriers must go before the commission either with an application under paragraph (2) of section 5 or with a plan under the provisions of the bill.

The House bill, on the other hand, provides that no securities may be acquired by a carrier except securities issued by a Class II or a Class III carrier without first presenting a petition to the commission for the approval of the plan for such acquisition. It is further provided that even where securities of a Class II or a Class III carrier are acquired the privilege of voting such securities shall not be exercised in any manner until the commission has made an order approving the acquisition. If the commission refuses to approve any such acquisition, the securities involved must be sold or otherwise disposed of by the carrier which has acquired them in the manner prescribed by the commission.

TYPE OF CONSOLIDATION PERMITTED

Section 203 (2) (c) of the Senate bill provides for a corporate consolidation under the provisions of the bill. Under this provision two or more carriers who wish to consolidate their properties, franchises, and other assets into a new corporation may present their plan to the commission and must proceed in accordance with the provisions of the bill in the same manner as if the plan called for a corporate merger or for any other type of unification. The provisions of State law relating to the machinery or procedure for carrying out the consolidation

are inapplicable and the carriers are relieved from all restraints and prohibitions of State law.

The House bill permits a corporate consolidation of two or more carriers, but only if such consolidation is to be effected under State law. This means, in effect, that if two or more carriers wish to unite their properties, rights, and franchises, and form a new corporation, they must petition the commission for the approval of a plan for the consolidation, but that after the approval of the commission is obtained, they must resort to the provisions of State law relating to that type of unification. If a consolidation is not permitted under the State law, or if conditions are imposed which prevent the proposed consolidation, the carriers must resort to some other method of unification.

VOTING BONDS

Under both the Senate bill and the House bill the holders of all voting securities of the carriers involved in a unification are entitled to vote upon the question of the adoption of the plan of unification approved by the commission.

The Senate bill provides, however, that if any such carrier has outstanding voting bonds, the trustee of the mortgage securing the bonds is to be held responsible for finding out who the bondholders are and of filing a certificate showing that a majority of such bondholders dissent from the proposed plan. The House bill makes no provision for getting the holders of voting bonds together at the meeting to vote upon the plan of unification.

PARAGRAPH (2) OF SECTION 5

The Senate bill merely amends in certain respects paragraph (2) of section 5 which provides for acquisition of control through purchase of stock, leases, etc., not amounting to a consolidation, so that even after the passage of the bill applications may be made under it in the same way that they may now be made.

The House bill provides that no application shall be made under paragraph (2) of section 5 after the bill becomes law but leaves it in force as to pending cases on the condition that the commission shall apply the provisions of section 202 in determining the public interest under the paragraph.

CARRIERS NOT PARTIES

The Senate bill contains a provision which permits the commission to authorize a carrier which is a party to a plan of unification to acquire by condemnation the properties, rights, and franchises of another carrier which is not a party and which has been insisting upon unreasonable terms, if the commission determines that it is in the public interest that such carrier should be made a party to the unification.

There is no provision in the House bill corresponding to this provision.

COMMISSION'S PLAN OF UNIFICATION

The Senate bill contains a provision directing the commission to complete a comprehensive study of the transportation facilities of the railroads and to prepare a plan or plans for their unification into systems. The plans are to be tentative but available for use by the commission in passing upon petitions for unifications and are to be completed before any order of the commission is entered approving a plan of unification. This provision is intended to give the commission a working basis for its consideration of petitions and is in fact a substitute for the more rigid provisions of existing law.

There is no provision in the House bill corresponding to that above mentioned. The House bill merely repeals all the provisions of existing law relating to the preparation by the commission of a complete plan of consolidation.

As many of the provisions of the Senate bill, particularly those relating to the legal machinery for carrying out a unification (including the joint agreement and petition, consent of carriers, order of the commission, etc.), are identical to the corresponding sections of the House bill (H. R. 12620) reported out near the end of the last session, a copy of that part of the House Report (No. 1264) containing a detailed analysis of the House bill is set out in the following pages.

APPENDIX

II. DETAILED ANALYSIS OF THE BILL

STRUCTURE OF THE BILL

The bill proposes to add a new title to the interstate commerce act. The mechanical structure of the bill is designed to keep the laws relating to carriers in one place and also to make the provisions of existing law relating to the procedure of the commission applicable to the provisions of the bill.

DEFINITIONS

Section 201 contains definitions of some of the terms used in the bill.

Section 201(1) defines the term "interstate or foreign commerce" in the usual manner. The definition does not change existing law, but is used in order to prevent repetition.

Section 201(2) defines the term "carrier." Inasmuch as this term is used throughout the act, the definition is of considerable importance. As a result of the definition the provisions of the bill will apply to a common carrier engaged in the transportation in interstate or foreign commerce of passengers or property wholly by railroad or partly by railroad and partly by water, within the continental United States, if the carrier is subject to the present interstate commerce act. This definition is based upon the provisions of section 1(1)(a) of the interstate commerce act. Consequently, a carrier is included within the definition if it is engaged in transportation by railroad, even though also engaged in other transportation; for example, by motor bus.

By reason of the fact that certain railroad companies have leased all their properties and consequently are not actually engaged in transportation, and by reason of the fact that many terminal companies, although not engaged in transportation, own terminal facilities, such as passenger and freight depots, yards, and grounds, which should properly be subject to the provisions authorizing the unification of carrier properties, such companies are included within the definition. A terminal corporation is one which owns properties to supply terminal facilities for one or more railroad companies, usually operating such properties either in whole or in part, under operating agreements with the railroad companies; and, consequently, companies, such as packing, mining, warehouse, lumber, and elevator companies, etc., which own terminal properties merely as an incident to the carrying on of their other business, are not included within the definition and, therefore, are not subject to the provisions of the bill. In order to permit the organization of a new corporation, the definition includes such a corporation, if it is organized to effect a unification and also for the purpose of engaging in transportation as a carrier. It will be noted that sleeping-car and express companies are excluded from the provisions of the bill.

Section 201(3) contains an all-inclusive definition of securities.

Section 201(4) defines the term "voting securities" to mean all outstanding securities, whether shares of stock, bonds, certificates, notes, or other evidences of interest or indebtedness, issued by a carrier, if such securities have voting privileges. Unissued stock and stock acquired by the issuing carrier and held in its treasury, of course, are excluded, as well as all securities, such as preferred stock, in respect to which no privilege of voting has been conferred. In other words, your committee felt that all securities having voting privileges with respect to any question involved in a proposed unification should continue to have the voting privilege under the bill, but that no greater voting privilege should be conferred.

PROTECTION OF THE PUBLIC INTEREST

Section 202(1) authorizes a unification of carriers or of property of carriers, but only if the Interstate Commerce Commission is of opinion that the unification will promote the public interest. This paragraph requires the commission to give due consideration, among other matters, to the maintenance of competition between carriers and the prevention of any undue lessening of existing competition, the preservation and improvement of the service afforded by the necessary weak or short lines, the promotion of economy, the affording of better service, the securing of a simplified and more effective regulation of carriers, and the ultimate establishment of a number of strong and efficient systems well balanced within themselves and with other systems.

The paragraph does not require the commission to find that each of the above will result from a proposed unification. It is intended rather to give to the commission an indication of what the Congress expects will result in the future from unifications. For example, it is conceivable that a proposed unification may not produce economies, and certainly the immediate establishment of all the strong and efficient systems ultimately to be created is not expected. Nevertheless, the unification, if otherwise proper, may be approved by the commission. Furthermore, the paragraph merely requires that the commission shall give due consideration to the above factors. It does not mean that greater consideration should be given to any one of them than to any of the others. It means that a sound balancing of all the factors involved in any proposed unification will result in the opinion that the unification will promote the public interest.

It will also be observed that the paragraph does not require a specific finding as to the actual existence of any of the factors. Inasmuch as the commission will have to make a forecast of the consequences to result from the proposed unification based upon all the information and facts available, and inasmuch as the commission will be expected to use a sound discretion in making its determination under this paragraph, it will be exercising a legislative, rather than a judicial, function and will be acting as an agency of the Congress.

It may be well to point out again that unifications are not to be authorized merely to satisfy the desire of human nature to attain gigantic size to obtain control. On the contrary, unifications are to be authorized only when the public will not be deprived of any of the advantages which it now possesses (at least unless a satisfactory substitute is provided), and when it will be assured that favorable consequences will result from the unification. Every effort has been made to protect the public interest and to make it the paramount test. If the Interstate Commerce Commission is not satisfied that a proposed unification will really promote the public interest, the plan should be disapproved.

Maintenance of competition: The paragraph requires the commission to give due consideration to the maintenance of competition between car-

riers. It will be observed that this does not require the maintenance of existing competition, but merely that there must be competition after a unification if there is competition before unification. It is obvious that competition between two strong carriers after a unification will prove much more effective than any existing competition between a strong and a weak carrier. Consequently, the public interest will be materially promoted if, in such case, the existing competition is replaced by effective competition between carriers of substantially the same strength.

Undue lessening of existing competition: Due consideration must also be given to the prevention of any undue lessening of existing competition. This provision does not mean that there can be no lessening of existing competition, and, obviously, the substitution of effective and substantial competition described above could not be accomplished without some elimination of the existing competition between the strong and the weak carriers. It is only undue lessening that the commission must prevent. If the public interest unquestionably requires the lessening of existing competition, it is obvious that such lessening will not be "undue." Again, the primary purpose of competition among railroads is to promote efficiency, economy, and better service. Competition which requires duplication and increases costs has a contrary effect and may well be eliminated.

The real advantages to the public of substantial competition, it is believed, can be gained only through unification resulting in competitive systems of approximately equivalent earning power, financial strength, and efficiency. Such a result would in itself amply justify the enactment of the bill.

Preservation of weak or short lines: The paragraph requires the commission to give due consideration also to the preservation and improvement of the service afforded by the necessary weak or short lines. The weak-line problem is undoubtedly one of the most serious problems now confronting us. A large percentage of the lines now owned by weak roads must continue to be operated. As stated above, continued abandonments will produce disastrous results to the communities which have developed in reliance upon the continued operation of the line. Although it is not expected that unifications will entirely remove the weak-line problem, it is certain that we may expect a very substantial percentage of the weak lines to become parts of strong and efficient systems.

The promotion of economy: There is, admittedly, much difference of opinion as to the substantial effect of the economies to be realized. It is undoubtedly true that many of the savings in overhead expenses will be counterbalanced, to some extent at least, by increased expenses, for example, in the case where a weak line, now operated with a minimum of expense, becomes a part of a system. It is also true that overhead expenditures constitute but a small percentage of railroad expenses. The testimony before the committee is convincing, however, that real economies will come from unifications. Large systems can make more economical use of their equipment, for a small road does not have sufficient traffic or sufficiently diversified traffic to make the most efficient use of all the equipment required to handle peak loads and of the different types of cars required to handle different commodities. There will be more direct routing and less back hauling of freight. Direct lines will be available for commodities demanding a fast service. The cost of switching will be reduced to a minimum. Methods and equipment and practices may be standardized. A substantial and forceful purchasing power will be concentrated in one agency. Shops and equipment will be utilized to the maximum extent.

In this connection it may be pointed out that it has been alleged, and considerable testimony has been introduced tending to prove, that in one of the proposed mergers now pending there will result an aggregate saving through economies of $10,000,000 a year. It may well be that the distribution of this amount among all the shippers in the territory served may of itself not appreciably be felt in rate reductions. Even assuming that no reduction by reason of the saving should be forthcoming, the saving of this amount and the improvement of the service resulting therefrom would prove very substantial and worth while.

Better service: The strengthening of credit facilities and the economies effected will permit additions and betterments, better equipment, and improved roadbeds. A system will be in a position to make direct and fast shipments. A sufficient number of cars of the proper type will be available to meet the demand. It will be able to give regular, adequate, and satisfactory service. Each system will connect directly with another system. The operation of solid trains to and from large centers and important gateways will be facilitated. The operation of terminals at large centers will be simplified. The number of junction points will be reduced to a minimum. A simplified movement of freight or passenger traffic will result in a minimum number of transfers and the maximum operation of through trains. Uniform service can be afforded throughout the year, for even though there should be a crop failure in part of the territory served by the system, for example, conditions might well be normal in other parts of its territory.

A simplified and more effective regulation: A reduced number of carriers will greatly simplify the duties of the Interstate Commerce Commission and also the duties of the carriers in handling matters before the commission. Our present railroad tracks and facilities are owned by about 1,900 and are operated by about 1,000 separate railway companies. Each of these companies has its own individual problems before the Interstate Commerce Commission and the commission must consider each of them.

A more effective regulation of carriers is one of the most important results to be expected from unifications. No system of rate making can be based upon the condition or position of an individual railroad. It must be based upon the condition and position of the railroads as a whole within a given territory. But each railroad should obtain similar financial and operating results. Similar results, however, can be obtained only if the railroads themselves are similar in character. So long as the units of our transportation system are so greatly lacking in uniformity as at present, it is obvious that uniform results can not be obtained.

Unification offers the only means other than Government ownership by which railroad units of a substantially uniform character may be created. Public regulation under present conditions is extraordinarily difficult, and its complexities are constantly increasing. If we are unable to make it more effective, efficient, and fair, public regulation may fail. And if it fails, the continuation of private ownership will become impossible.

The ultimate establishment of systems: The ultimate goal of unifications is the establishment of a limited number of systems which will be able to render, and to continue to render, to the public the service demanded at rates which are reasonable to the public and which will yield to the carriers a fair return upon the value of their railway properties. It is not expected that the immediate establishment of the systems contemplated is possible. Years will undoubtedly elapse, during which unifications will be effected from time to time, before the ultimate goal is reached. The commission must, however, keep the ultimate end in mind and must consider whether any proposed unification will tend to bring about the ultimate establishment of a strong and efficient system.

A carrier which is "strong" is in a position to obtain the necessary funds for additions and betterments and equipment at the lowest possible cost. An efficient system is one neither so large as to be unwieldly or unmanageable, nor too small to secure economies derived from large-scale operations; one that can make the best possible use of its rolling stock, yards, and terminals, so as to avoid the congestion of transportation on the one hand and idle facilities on the other; one that will be in a position to meet the transportation demands made upon it at the lowest possible costs. A well-balanced system is one that has a reasonable opportunity to originate well-diversified and dependable traffic which assures a continuity of revenue, so that the depression in a single industry will not too greatly affect its total traffic; one which will have facilities, equipment, tracks, yards, and terminals adequate to the public needs. A system well balanced with other systems is one which will become competitively important in freight transfer and delivery, which will be able to give service comparable to that afforded by competitors, and which will be able to hold its own with other systems serving the same territory.

Other factors in the public interest: The Interstate Commerce Commission, in passing upon an application under paragraph (2) of section 5, has given consideration to practically all the factors enumerated in section 202 (1) in determining the public interest. The commission has also considered factors in addition to those specifically mentioned, which it will also consider under the provision in the section that it give due consideration to "such other factors as may be in public interest." One of the very important factors which it has considered in the past and will consider under this provision is the financial set-up of the proposed unification, involving such things as the amount of bonds and stock, the issuance of no-par-value stock, the amount of stock having voting privileges, the size of the corporation controlling the carriers involved in the unification, etc. (See Nickel Plate Unification, 105 I. C. C. 425, 444–445; Unification of Southwestern Line, 124 I. C. C. 401, 437–439.) The purpose of this general provision is to make it possible for the commission to consider, among other things, all the factors controlling an interpretation as to public interest under paragraph (2) of section 5 which are not specifically enumerated in section 202. A second important consideration is the fairness of the terms from the point of view of the stockholders. (See Nickel Plate Unification, supra, pp. 445–448.)

NEW LAW IS EXCLUSIVE

It is uncertain whether the present law constitutes the exclusive method by which unifications may be effected. Except for the question of the possible violation of the antitrust laws, the better view seems to be that unifications may be effected under authority of State law. In any event your committee is convinced that there should be but one law authorizing unifications and that that law should be a Federal statute. Consequently, the bill provides, in section 202 (2), as to the future, that no consolidation, merger, or acquisition of voting securities may be effected except in accordance with the provisions of the new bill. It should be pointed out that the committee has specifically decided to make this provision only of future application. The validity of acts done in the past must be determined under the law applicable thereto, wholly without regard to the provisions of the new bill.

It will be observed that the prohibition does not affect the provisions of paragraphs (18), (19), and (20) of section 1 (relating to extensions of line), the provisions of paragraph (4) of section 3 (relating to joint use of terminals), the provisions of paragraph (2) of section 5 (authorizing acquisitions of control), the provisions of paragraph (15) of section 1 (relating to car service and use of terminals), or the provisions of section 20a (relating to security issues), of the interstate commerce act, whether the order of the commission under any of these provisions is entered before or after the new bill becomes law. Neither does the prohibition interfere with the formation of subsidiary corporations, and the acquisition of all or any part of the securities thereof, for the construction, operation, and ownership of branches, extensions, or terminals, or equipment, or facilities to be used in connection therewith. This provision is of the utmost importance in order to care for present practices, established primarily because of the existence in mortgages of an "after acquired property" clause. The exemption, however, is limited to cases of proposed construction, operation, and ownership. It does not apply to acquisition through purchase or lease, for example, for the committee believed that purchases or leases should be effected under the provisions of the bill.

TYPES OF UNIFICATION AUTHORIZED

Section 203 (1) provides that in order to bring about a unification two or more carriers may agree on a plan therefor to be carried out under authority of the bill.

Paragraph (2) of this section enumerates the types of unification which may be included in the plan. The first of these, described in subdivision (a), is an acquisition by or transfer to a carrier of all or a part, or of the right to operate all or a part, of the properties or franchises of one or more carriers. This acquisition or transfer may be by purchase, sale, exchange, lease, or otherwise, and includes all transactions by which the ownership or possession of properties or the right to operate properties may be transferred from one carrier to another without change in the corporate organization of either of the carriers. Of course, a carrier corporation, after disposing of all its properties, may dissolve, but such dissolution is not contemplated as a part of a plan under this subdivision. It is further provided that, if desired, any remaining assets of any carrier may be disposed of. No corporate merger or consolidation is here contemplated.

Subdivision (b) provides that the plan may include a corporate merger of one or more carriers into another. The term "merger" is here used in a strict, legal sense and is intended to include only a transaction whereby the properties, franchises, and other assets of one or more carriers are taken over or absorbed by another carrier, accompanied by the termination of each merging carrier and the continuation of the acquiring or continuing carrier without any change in, or interruption of, its corporate existence. The effect of such merger upon the title to the property, and upon the rights, privileges, powers, immunities, exemptions, and franchises of each of the corporations, and upon their debts, liabilities, and duties, is specifically set forth in section 211 hereinafter discussed.

By the terms of subdivision (c) of section 203 (2) a corporate consolidation of two or more carriers may be included in the plan, but only if such consolidation is to be effected under State law. Again, the term "consolidation" is used in a strict sense to describe the type of corporate combination wherein the properties, franchises, and other assets of two or more carriers are united and passed to a new corporation, the consolidated corporation, whereupon the corporate existence of each of the constituent companies is terminated, and, generally, the stockholders of the constituent corporations become the stockholders of the consolidated corporation. A unification of this character requires the creation of a new corporation, and can be effected only under statutory authority. The corporation laws of most of the States contain provisions for this form of combination. Usually, the same provision which authorizes the consolidation creates the new consolidated corporation. The procedure prescribed ordinarily requires a joint agreement setting forth details of the organization of the new company, to be submitted for approval to the stockholders of each constituent company, and, when duly filed with the proper State officer, constituting the charter of the new corporation. It is not desirable to have in the bill any provision which might be construed as creating a corporation under Federal law. It is hardly within the power of Congress to provide for the creation of a new corporation under the laws of any of the States. Therefore, it seems desirable that a combination of this type be carried out under the laws of the State or States creating the corporations involved.

Finally, by the terms of subdivision (d) of this paragraph, the plan may provide for the acquisition by a carrier of securities of another carrier (whether or not one of the petitioning carriers) by purchase, exchange, lease, or otherwise, or the approval by the commission of an acquisition of securities of class 2 or class 3 carriers under the provisions of paragraph (2) of section 205, hereinafter referred to.

CONSOLIDATION AND MERGER DISTINGUISHED

The term "consolidation" is frequently used in statutes and judicial decisions, in a loose sense, to include corporate combinations which result in either (1) the creation of a new corporation and the dissolution or extinction of all of the combining corporations, or (2) the continued and enlarged existence of one of the corporations and the dissolution or practical extinction of the others. Thus, in the case of Central Railroad & Banking Co. *v.* Georgia (1875), 92 U. S. 665, the Supreme Court held that a statute providing for "consolidation" did not necessarily work a dissolution of both companies and the creation of a new one. Usually, however, when the questions involved in a case make it important to determine whether, under a particular statute, the combining corporations have all been extinguished and a new corporation created, it is found that the courts apply the term "consolidation" to such a combination, and distinguish as a "merger" the case where one of the combining corporations continues to exist and absorbs into it the properties, franchises, and other assets of the others, which thereupon go out of existence. So, in the case of Atlantic & Gulf Railroad Co. *v.* Georgia (1878), 98 U. S. 359, the Supreme Court, in holding a combination to be a strict consolidation, said:

"The consolidation provided for was clearly not a merger of one into the other, as was the case of Central Railroad & Banking Co. *v.* Georgia. * * * That generally the effect of consolidation, as distinguished from a union by merger of one company into another, is to work a dissolution of the companies consolidating, and to create a new corporation out of the elements of the former, is asserted in many cases, and it seems to be a necessary result."

A more recent Federal case pointing out the distinction is Lee *v.* Atlantic Coast Line R. Co. (1906), 150 Fed. 775. (See also, a valuable note on consolidation in 89 Am. St. Rept., at page 604, and cases there cited.) It may be said that the later and better considered authorities limit the term "consolidation" to combinations of two or more companies creating a new corporation and extinguishing the old ones, as distinguished from a merger by one company absorbing another without the creation of a new corporation. It is in this sense that the terms are used in the bill.

JOINT AGREEMENT AND PETITION

Section 204 provides the machinery by which two or more carriers which propose a unification may present to the commission the plan of unification that has been agreed upon.

Section 204 (1) provides that if the boards of directors of two or more carriers have authorized a joint agreement proposing the plan of unification and this agreement has been executed by the carriers, they may then petition the commission for its approval of the proposed plan. The commission may by regulations prescribe the details to be included and may by special order require the carriers to include in the petition details of the plan in addition to those included by the carriers. Such petition or plan may be amended at any time by leave of the commission.

Section 204 (2) provides for the contents of the joint agreement. This includes the terms and conditions of the plan and the methods by which it is to be effected. There is also to be a statement of the proposed financial set-up, and of the securities involved in carrying out the plan, together with the terms on which such securities are to be issued, and a statement of the rights, privileges, powers, and immunities granted or denied under the plan to different classes of stockholders. Finally, the joint agreement may contain such other provisions and details as the boards of directors may deem necessary or appropriate or as the commission may require.

Section 204 (3) provides the manner in which a joint agreement may be authorized by the board of directors.

Section 204 (4) requires that a duly executed copy of the joint agreement be filed with the commission as a part of the petition.

ACQUISITION OF SECURITIES BY A CARRIER

Section 205 authorizes a carrier to petition the commission for the approval of a plan to be effected by an acquisition of securities of another carrier, and authorizes the acquisition of securities issued by a class 2 or a class 3 carrier upon the condition that the securities can not be voted until the acquisition has been approved by the commission.

Section 205 (1) authorizes a carrier which proposes to bring about a unification through the acquisition of securities of another carrier to submit to the commission a plan which has been adopted by a majority of the directors of the petitioning carrier. The petition must include the plan and the terms, methods, and purpose of the proposed acquisition, and the issue of any new securities that may be involved in the plan, in such detail as the commission may require. This paragraph is intended to apply primarily to the case of a carrier classified by the commission as a class 1 carrier, and it sets up the only method by which, after the date of the enactment of the bill, the voting securities of any such carrier may be acquired by another carrier (except as to applications pending under paragraph (2) of section 5). If any such acquisition is attempted by any other method it will be unlawful and will fall within the prohibition of section 202 (2).

Section 205 (2) authorizes any carrier to petition the commission for the approval of an acquisition of securities of a class 2 or a class 3 carrier if the acquisition has been authorized by the vote of a majority of the directors of the acquiring carrier. No restriction is imposed upon the act of acquiring such securities, but the privilege

of voting in respect to such securities is to be withheld until such time as the commission, upon petition of the acquiring carrier, has granted its approval to the acquisition. If the commission refuses to approve the acquisition, then it may require the carrier which has obtained the securities to sell or otherwise dispose of them.

PROCEDURE OF THE INTERSTATE COMMERCE COMMISSION

Section 206 of the bill prescribes the notice to be given and provides for a public hearing upon a petition. Here again the interests of the public are protected by requiring notice to be given to the governor of each State in which any part of the line of any carrier a party to the plan is located, and to the railroad commission, public service or utilities commission, or other regulatory agency of the State, and by giving a specific right to the governor or the commission, or other representative, to be heard. The section also gives any person having an interest in the proposed unification an opportunity to be heard before the commission, so that organizations of shippers, chambers of commerce, and other community organizations, and the stockholders, or bondholders and other creditors, of the carriers involved may be heard. In order that the hearings may not be unnecessarily prolonged, and in order that the right to cross-examine witnesses may be kept within reasonable limits, the right of persons having an interest in the proposed unification to be heard is subject to rules to be prescribed by the commission.

Section 20a and paragraphs (18), (19), and (20) of section 1 of the interstate commerce act require similar notice to the governors of the States. In order to avoid duplication of hearings section 206 (2) authorizes action under the above provisions in any proceeding upon a unification under the new bill. The nature and effect of the action, however, is governed by the provisions just referred to.

Primarily for the purpose of giving weak or short lines an opportunity to become parties to any proposed unification, section 206 (3) permits the filing with the commission of an intervener's petition. In order that the filing of a petition may not unduly interrupt the proceedings, it is provided that the intervener's petition must be filed prior to or at the time the original petition is called for hearing, unless the commission grants a request after such time upon a showing of good cause for a failure to file theretofore. In any such case, of course, the commission permits the filing of the petition upon such conditions as have been prescribed, such as requiring the intervener to accept the record of the commission previously made.

The provisions of existing law, or of any future amendment thereto, relating to the procedure of the commission, are applicable to its procedure under the provisions of the new bill. (See sec. 12 and sec. 17 of the interstate commerce act.)

ORDER OF THE COMMISSION

Section 207 (1) of the bill provides that if, after the hearing, the commission is of opinion that the proposed unification will promote the public interest and finds that those provisions of the bill which are conditions precedent to the entry of the order have been complied with, the commission shall enter an order approving the plan or (in the case of a petition seeking the approval of the commission of an acquisition of securities issued by a class 2 or a class 3 carrier, effected under section 205 (2) of the bill) the acquisition of securities. It is again pointed out that the paragraph does not require a finding by the commission upon the public interest but merely requires that the commission be of the opinion that the proposed unification will promote the public interest. (Compare the Chicago Junction Case (1924), 264 U. S. 258.) The determination of the public interest must be made, of course, in accordance with the provisions of section 202.

The conditions precedent to the entry of the order are, briefly, in the case of a plan presented under section 204, that a plan has been agreed upon, that the plan provides for one of the various methods of unification, that a joint agreement has been entered into proposing the plan duly authorized by the boards of directors and executed by the carriers, and that the joint agreement contains the provisions required; and, in the case of a petition under section 205 for the approval of a plan for unification through the acquisition of securities, or for the approval of an acquisition theretofore made of securities issued by a class 2 or class 3 carrier, that the petition is properly presented, and that the plan or acquisition has been duly adopted or authorized by the board of directors; and, finally, that in all cases the requisite notice has been given and the public hearing held at which the parties or persons have been afforded a reasonable opportunity to be heard.

The approval of the commission may be made upon such terms and conditions as it may prescribe in the public interest. If the commission finds, upon objection of a stockholder, bondholder, or holder of any other security issued by a carrier a party to the plan, who has appeared before the commission, that the terms and conditions of the plan are unfair or unreasonable as to him, whether by reason of the fact that the compensation offered him in the case of an exchange of securities, for example, is inadequate or is less than the "just compensation" to which he is entitled, or by reason of the fact that he has been discriminated against and that other holders are given more favorable terms than those offered him, then the commission is authorized to approve the plan upon such terms and conditions as it finds to be fair and reasonable.

Section 207 (2) deals with the situation where a carrier not joining in the original petition is to be made a party to the plan, either upon its petition or upon the initiative of the commission. In order that the unification may be entirely voluntary, the paragraph provides that the original petitioners may report back to the commission and obtain a revocation or modification of the condition, if the new carrier is insisting upon unreasonable terms; or, if the new carrier so requests, the commission may prescribe the terms upon which it may be made a party to the proposed unification if the carriers elect to carry out the plan.

Section 207 (3) is another provision intended to protect the interests of weak and of short carriers, and requires that the carriers and the commission shall give due consideration to the inclusion in the plan of short and of weak carriers in the territory involved.

ISSUANCE OF SECURITIES

Section 207 (4) makes it certain that the provisions of section 20a will be applicable to the issuance of securities in connection with a unification. Section 5 (6) (b) of the present law imposes a condition which would, if carried into the new bill, practically prevent unifications, as it provides that the par value of the outstanding stock and bonds must not exceed the value of the consolidated properties as determined by the commission.

The director of finance of the Interstate Commerce Commission, Mr. Mahaffie, discussed the matter thoroughly and in detail in the executive sessions of the committee. Since the enactment of the transportation act of 1920, containing the provisions of section 20a, giving complete jurisdiction to the Interstate Commerce Commission over the issue of securities, there has been no overcapitalization, and the commission has been gradually "squeezing out the water" accumulated prior to that time. Your committee feels that section 20a has been ably administered, is proving very effective, and that no additional safeguards are necessary, except the imposition of one condition, namely, that there should be no capitalization of intangible values resulting from the proposed unification. Although the commission has consistently refused in the past to permit an issuance of securities based upon a capitalization of intangible values, your committee feels that any possibility of a reversal of this practice should be specifically prevented.

CONSENT OF CARRIERS

After the order of the commission has been entered, section 208 requires that the carriers must consent to the order before it becomes effective. This obviously is in line with the policy that unifications should be voluntary. In the case of an order authorizing or approving an acquisition of securities, whether under section 205 or under section 203 (2) (d), the consent of the carriers is given by the boards of directors. If the plan provides for unification through any of the other methods (whether or not the acquisition of securities is involved) the holders of the voting securities, as well as the boards of directors, must consent to the order in so far as it involves a unification by such other methods. A favorable vote of a majority of the board of directors of each carrier and a majority of the holders of voting securities is sufficient to grant the consent.

Section 208 (3) requires that, if the consent of the holders of the voting securities is required, such consent must be given at a special meeting. Notwithstanding the fact that voting bondholders, for example, are included, the paragraph provides that the special meeting is to be called and held and conducted in the manner prescribed for a special meeting of stockholders. The right to vote is not fixed in the bill but will be determined under the provisions of the State law, the articles of incorporation, the by-laws, the terms of the bond, etc. For example, if a mortgage provides that the bondholders, or any specified percentage of them, must consent to a disposition of a substantial portion of the assets of the corporation, such bondholders will have the right to vote upon so much of the plan as relates to the disposition of assets, or, if the plan includes such a disposition and no separate vote is taken on that portion of the plan, then upon the plan as a whole.

The method by which their vote is cast will be governed without regard to the provisions of the bill, in the same manner as though the specific question were presented in the ordinary course of business at a special stockholders' meeting. The bill in this respect differs materially from prior bills upon the subject.

Section 208 (4) requires the certification of the consent of the carriers, in order that the commission may be duly advised upon the action taken. This paragraph also provides that the certification shall be prima facie evidence of the facts certified. It is pointed out, however, that in section 210 (3) the certification by the commission, following the certification as to the consent of the carriers, is conclusive evidence that the applicable provisions which are conditions precedent have been complied with.

EFFECTIVE DATE OF COMMISSION'S ORDER

Section 209 provides that the order of the commission shall become effective upon the expiration of 30 days from the date on which the commission certifies that the carriers have consented, except to the extent that the order is suspended or set aside by a court of competent jurisdiction upon suit begun prior to the expiration of the 30-day period. Because of the tremendous importance attached to an order of the com-

mission it is imperative that once an order of the commission has become effective there be no method by which the order itself can be invalidated. Consequently it is provided that any suit for an injunction must be instituted prior to the 30-day period. The jurisdiction of the courts over such a suit is fixed by the provisions of the urgent deficiency appropriation act of October 22, 1913, commonly known as the district court jurisdiction act. Wide publicity will be given to the proceedings of the commission upon a proposed unification and ample opportunity to appear before the commission will be afforded. Accordingly the 30-day period is clearly adequate.

EFFECT OF COMMISSION'S ORDER

Section 210 (1) is a grant of Federal power to each carrier designated in the order of the commission to do anything necessary or appropriate to carry into effect the plan as approved. Although this power will be derived from a Federal law, it does not mean that the carrier becomes a Federal corporation, nor does it mean that the carrier is an instrumentality of the United States.

If the plan has provided for a consolidation (and the provisions requiring that the plan can provide only for a consolidation to be effected under State law have been previously explained), it will be observed that no corporate power to carry out the consolidation will, in legal effect, be derived from this paragraph. If no power exists to consolidate under the State law, the commission can not approve. If power does exist, then the commission's order will merely authorize the carriers to proceed with the consolidation in accordance with State law.

Section 210 (2) grants immunity from the antitrust laws of the United States; from the provisions of paragraph (12) of section 20a prohibiting interlocking directorates; from any other Federal restraints or prohibitions; and (except in the case of a corporate consolidation) from all restraints or prohibitions of State law or any decision or order of any State authority. The exemption is granted, however, only in so far as may be necessary or appropriate to enable the carrier and its officers, directors, and agents to enter into and carry into effect the plan, or in accordance with the plan to hold, maintain, and operate any properties and exercise any franchises. The paragraph obviously does not affect such provisions as the commodities clause (paragraph (8) of section 1 of the interstate commerce act) any more than it relieves carriers from complying with the provisions of the law relating to rates. In any event, should the plan appear to provide for the transportation by a carrier of coal, for example, mined by it and intended for sale, adequate protection undoubtedly will be obtained in the order of the commission.

Section 210 (3) provides that the entry of the order of the commission and the certification under section 209 shall be conclusive evidence that the carriers, their boards of directors, and the holders of voting securities have complied with the provisions of the title applicable to them. The purpose of this provision is to make the finding of the commission final, subject to court "control" in any case in which the commission's action is not in accordance with law, or in which it has acted arbitrarily or without evidence.

Section 210 (4) is intended to meet the situation arising by virtue of certain conveyances to carriers with a specific prohibition upon any disposition by such carrier of the property conveyed and a provision providing for reversion to the grantor if a disposition is attempted.

EFFECT OF UNIFICATIONS

Effect of combinations generally: It may be stated broadly that the disposition of a substantial part of its assets by a railroad corporation, or the merger or consolidation of such a corporation with another, can not be effected in the absence of statutory authority. Aside from the technical legal considerations applying to corporations generally, a paramount reason for this rule is found in the fact that the property and business of railroad corporations are affected with a public interest, and, without legislative sanction, public policy will not permit transactions materially affecting the organization or conduct of such properties or business. The statutes authorizing the sale of railroad properties and the consolidation or merger of railroad corporations ordinarily make express provision as to how far the rights, powers, franchises, privileges, immunities, and exemptions of a corporation will pass with a transfer of the properties. Usually it is provided, and in the absence of express provision a presumption arises, that all rights, powers, franchises, and privileges necessary to the operation of the properties pass with them upon a transfer. (Tennessee v. Whitworth (1885), 117 U. S. 139.) In the case of consolidation it is perhaps not strictly accurate to speak of a transfer of such rights, powers, etc., as it has been held that the new corporation takes them by grant and not by transfer, and that in such cases the reference in the statutes to "all the rights, etc., of the constituent companies" is merely descriptive. (Shields v. Ohio (1877), 95 U. S. 319.) But the effect is the same.

Generally speaking, the extent to which these intangible assets are transferred is not so great upon a sale of properties as in other forms of combination, but all franchises and powers necessary to the enjoyment of the property are as a general rule held to pass. (Morgan v. Louisiana (1876), 93 U. S. 217.)

In merger and consolidation the rights, franchises, etc., acquired by the continuing or consolidated company depend upon the language of the statute authorizing the combination and the intention of the legislature, and if there is no provision in the statute a presumption arises that all righs, franchises, and privileges, other than those which are personal or exclusive, are transferred with the property subject to the same burdens and restrictions as in the hands of the merging or consolidating companies.

Both in merger and in consolidation, exclusive rights and privileges under the charter of a merging or constituent corporation, which are to be strictly construed against the corporation, are held to pass only when a transfer of such rights or privileges has been authorized, originally or subsequently, by the statute under which the combination takes place or by charter, and every doubt as to the authorization will be construed against the company. (See Rochester Railway Co. v. City of Rochester (1906), 205 U. S. 236.) Nor does an exemption enjoyed by a continuing company extend to property acquired from a merging company unless expressly so provided. (Central Railroad, etc., Co. v. Georgia (1875), 92 U. S. 665.) The law in effect at the time of a consolidation controls, for, as has been noticed, the statute makes a new grant, and can not do so in violation of a general restriction in effect at the time. For example, if a constitutional prohibition against exemptions from taxation has intervened before a consolidation is effected, the consolidated company can not acquire any such exemption as may have been enjoyed by a constituent company. (Keokuk & Western R. R. Co. v. Missouri (1894), 152 U. S. 301.) In the case of a merger, in similar circumstances, a transfer of the exemption might be possible.

The same general rules apply in combinations of companies incorporated under the laws of different States. However, when two or more such corporations merge the corporation which continues in existence acquires no new rights, powers, or privileges in the State of its incorporation but succeeds to the franchises of the merging corporations and may exercise their powers in the States of their creation, subject in each case to the restrictions and burdens under which the merging corporations existed. The extent to which the powers, privileges, and immunities of the merging corporations pass to the continuing corporation depends in each case upon the intention and language of the statute under which the merger is effected.

The same is true in the case of a consolidation of corporations of different States. Such consolidation requires the authorization of the legislature of each of the States concerned. While there has been some difference of opinion as to whether a single new corporation is created or the old corporations merely continue in existence under a common name and direction, the great weight of authority is to the effect that a new consolidated corporation is created just as in the case of a consolidation of two corporations of the same State. This corporation is a domestic corporation in each of the States concerned, has a domicile in each of them, and is subject to the control and regulation of each to the extent that its business is conducted therein. "It is a single corporation with two parents who live apart and independently, each having absolute control in his own domain. It owes allegiance and is subject alike to each, and is dependent upon each alike for future favors." (Attorney General v. N. Y., N. H. & H. R. R. Co., 198 Mass. 413.) The consolidated corporation can not exercise in one State powers given to it only by its charter in another State which other corporations in the first state are not permitted to exercise.

The distinction between merger and consolidation is here apparent as in the case of merger the continuing corporation does not become a domestic corporation in the State in which the merging corporation was organized. (Lee v. Atlantic Coast Line R. Co. (1906), 150 Fed. 775.)

In the Delaware Railroad Tax case (1873), 18 Wall. 206, a leading case in the United States Supreme Court, it is stated that a corporation formed by the consolidation of corporations of different States will, in its relation to each of the States, stand as a separate corporation governed by the laws of that State as to its property therein and subject to taxation in conformity with such laws.

For a more detailed statement of the effects of consolidation, both of domestic corporations and of corporations of different States, reference may be made to the note, heretofore referred to, in 89 Am. St. Rept., at page 604. This note has been frequently cited and quoted in the cases. As consolidation, though authorized by the bill, is to be carried out under State law, the bill makes no attempt to state its effect, which must depend in each case upon the law of the State or States in question. It has been discussed here mainly for purposes of comparison.

Effect of corporate merger under the bill: Section 211 states the effect of a corporate merger carried out under the bill. Paragraph (1) provides that upon the effective date of the order of the commission approving the plan the following (except as restricted or limited in the plan as approved) will result:

(a) The merging corporations shall be held to be merged into the continuing corporation.

(b) The continuing corporation shall have all the rights, privileges, powers, immunities, exemptions, and franchises of each of the merging corporations. Such a provision, as observed above, will entitle the continuing corporation to exercise all powers and franchises and to enjoy all the rights, privileges, immunities, and exemptions theretofore exer-

cised or enjoyed by each of the merging corporations in the same territory and in respect to the same property as in the case of such merging corporation. Exemptions from taxation are included.

(c) The title and right of each merging corporation in all property, real and personal, and in all choses in action shall be held to be transferred to and vested in the continuing corporation.

(d) All debts, liabilities, and duties of each merging corporation will be enforceable against the continuing corporation to the same extent as if originally incurred or contracted by it.

Paragraph (2) of this section provides that the rights of creditors and all liens upon properties of each merging corporation shall be preserved unimpaired and that each merging corporation shall be deemed to continue in existence so far as necessary to preserve such rights and liens.

Under paragraph (3) the continuing corporation will stand in the shoes of each merging corporation in any action or proceeding pending by or against it.

DISSENTING STOCKHOLDERS

Sections 212 and 213 provide for the protection of the legitimate interests of minority stockholders. It should be noted that there are other provisions heretofore referred to relating to protective measures available to all stockholders. Sections 212 and 213 are concerned with minority stockholders only and deal with three main questions: First, the basis of selection of minority stockholders to be protected; second, the extent of the protection to be afforded; and third, the machinery for making that protection available.

The dominating purpose of these sections is to afford certain stockholders the opportunity to refrain from going along, against their will, with the new plan, to withdraw from the enterprise, and to liquidate their holdings. Obviously, however, this opportunity need not be afforded to all stockholders. Those who favored the adoption of the plan may be dismissed from further consideration. They cast their lot with the new plan. They stand by their own decision and if they desire to get out may do so only by a sale of their stock in the open market or otherwise. Nor is the committee satisfied that the opportunity should be given to every stockholder who opposed the adoption of the plan.

Basis of selection of minority stockholders: In determining the basis of selection of those who, from among the total number opposing the plan, should have the opportunity to dispose of their stock, two factors have been observed: The effect upon their holdings of stock, and the time when they became stockholders.

Selection as affected by the plan: Paragraph (1) of section 212 specifies the classes of stockholders (from the standpoint of the effect of the plan) who may, if they meet the requirements of paragraph (2) of that section, become dissenting stockholders within the meaning of the bill and as such be entitled to its benefits. The most usual case in which a stockholder may desire to withdraw from the enterprise and liquidate his holdings is where the corporate transaction involves the disposition of all, or substantially all, of the properties, franchises, and other assets of the company. When the holders of a majority of the stock of a corporation have power to take such a step the right of dissenting minority stockholders to receive payment in cash for their shares is almost universally recognized by the courts and is expressly stated in the statutes of a number of the States. Accordingly the first class of stockholders specified in the paragraph (in subdivision (a) thereof) as entitled to become dissenting stockholders includes those holding shares issued by a carrier a party to a plan which involves the disposition of all, or substantially all, of the properties, franchises, and other assets of such carrier.

Less frequently, an acquisition by his company of properties, franchises, or other assets gives rise to a situation which in justice requires that a dissenting stockholder be entitled to withdraw from the enterprise and liquidate his holdings. The basis of such a right is the extension or alteration of the business and purposes of the company to such a degree as to amount to a material change in the enterprise upon which the stockholder embarked, to which he should not be forced to submit. The extent of change necessary to give rise to such a right is a matter of degree, and has been the subject of somewhat varying judicial decision. It has seemed best therefore to leave the question largely to the law of the State by which the corporation was created, to which law it must be assumed the stockholder looked when he entered into the contract by purchasing his share. It is therefore provided, by subdivision (b) of paragraph (1) of section 212, that the holder of a share in a carrier corporation which proposes to acquire properties, franchises, or other assets may become a dissenting stockholder for the purposes of the bill only if he would have been entitled to obtain payment for his share if the same plan were being carried out under the law of the State of incorporation of his company.

It is to be expected that many plans will include both disposition of properties and acquisition of properties by the same carrier. The plan would then fall within the terms of both subdivisions. But the acquisition might be such as would not, under the State law, give rise to any right on the part of a dissenting stockholder. In order to make it clear that in such cases the minority stockholders' rights are not dependent upon the State law, it is provided that the provisions of subdivision (b) shall not be held to limit the application of the provisions of subdivision (a).

For the purposes of this section it is immaterial whether the disposition or acquisition referred to is effected through a corporate merger, sale, exchange, or lease, or in any other manner, except through a corporate consolidation, which, under the bill, is left to State law, and in which, therefore, the rights of stockholders must depend entirely upon that law.

Conditions to be met by stockholders: Not all of the stockholders identified as above are given the opportunity to dispose of their stock. An element of time must be considered. The bill specifically provides that a stockholder shall be entitled to the privilege only if he was registered as such upon the date of the entry of the order of the commission approving the plan. The purpose of this limitation is to discourage speculation in the stocks of carriers parties to a plan of unification. Purchasers of such stocks subsequent to the date of the entry of the order of the commission will be on notice of the pending unification. If they purchase after the entry of the order and before the closing of the books they may, of course, vote at the special meeting, but no reason is perceived why they need be given a special opportunity to dispose of their stock. Of course, there will be purchases in this intervening period intended for bona fide investment, and there may be other acquisitions—e. g., by legacy—free from any speculative element, as to either or both of which some possible hardship may be entailed by withholding the opportunity to dispose of the stock. But on the whole and after due consideration of the administrative difficulties attendant upon segregating the several methods of acquisition, the committee concluded that the more feasible course was to exclude all stock acquired after the date of the entry of the order of the commission.

The mere fact, however, that the stockholder was registered on that date is not enough to entitle him to dispose of his stock to the carrier. Certain conditions must be satisfied, namely: He must have continued to be registered as a stockholder until the closing of the books for the special meeting called to pass upon the adoption of the plan; he must have voted against the adoption of the plan at the meeting or prior to the meeting have given the carrier a written protest against the adoption of the plan; and he must have given the carrier, within 60 days after the special meeting, written notice that he does not consent to the adoption of the plan. If all the foregoing conditions are satisfied, the stockholder is classed as a dissenting stockholder.

Again, however, the bare fact that a stockholder has qualified as a dissenting stockholder does not of itself entitle him to dispose of his stock to the carrier. At this point the petitioning carriers have the privilege to withdraw and abandon their petition proposing the plan. This is specifically provided in paragraph (3) of section 212—that they may withdraw and abandon the petition "proposing a plan as to which there is a dissenting stockholder." The reason for this provision is to make it plain that the carriers may desist from carrying their plan into operation if the number of dissenting stockholders would impose upon the carriers too heavy a financial burden. This privilege to the carriers is designed to be the equivalent, under the condition specified, of the privilege of the condemnor in ordinary condemnation proceedings to abandon the condemnation if the cost is excessive. True, at this particular juncture in the unification proceedings, the exact cost of purchasing the dissenting stock is not known (for the purchase price is determined subsequently in the condemnation proceedings), but the maximum probable cost can be estimated once it is known what stockholders have dissented and how much stock they have.

If the plan is not abandoned but comes into operation on the effective date of the order of the commission, the dissenting stockholder is at once entitled to sell his stock to the carrier which is to carry on the business. But the privilege does not necessarily include all the stock owned by the dissenting stockholder; it includes only the stock which was registered in his name continuously from the date of the entry of the order of the commission up to the date when he qualified as a dissenting stockholder by giving the required written notice. Nor is it merely a personal privilege of the dissenting stockholder; it is a privilege which attaches to the share itself (see par. (3) of sec. 212), to that irrespective of who may be the holder subsequently to the dissenting stockholder himself the carrier is required to purchase the stock.

Extent of the protection: Just compensation must be paid for the stock. The bill proceeds on the basis that (in all cases where the stockholder and the carrier can not agree as to the price) the stock shall be taken by eminent domain. On the basis of eminent domain the Constitution (fifth amendment) requires that just compensation shall be paid. The language of the bill, then, is the language of the Constitution. In the last analysis it is a matter of judicial determination whether the value fixed for any share of stock constitutes just compensation. (Monongahela Navigation Co. *v.* United States (1893), 148 U. S. 312.) Higher than this just value, the

committee would not go; lower than this, even if the committee thought the bill should be so framed, the Constitution would not permit the price to be fixed.

The committee was impressed with the suggestion made in the public hearings on the bill (see p. 318) that the value should be determined without appreciation or depreciation by reason of the unification itself. An examination of the statutes of several States discloses that they attempt to meet the situation in several ways, the most frequent of which is to specify a given date as of which the value shall be determined, e. g., the date of the sale, merger, stockholders' meeting, etc. But the committee concluded not to write any rigid rule into the bill. Considerations of the character mentioned above are implicit in the term "just compensation." Other considerations also may enter. As an additional matter and to make sure that the dissenting stockholders shall have the fullest protection in respect to the valuation of their stock in condemnation proceedings, provision is made for taxing the costs and (subject to the approval of the commission or the court) the expenses incurred in the condemnation proceedings upon the carrier involved.

The desirability of inserting this provision can hardly be exaggerated. It removes a long-standing reproach to the law. Hitherto the small stockholder's remedy has been illusory. He has been burdened with the payment of those counsel fees which are not taxable against the corporation and in practice, where the holding of stock is small, their amount renders the right to institute proceedings nugatory. In effect he has had a right without a remedy—a right to just compensation for his stock but no reasonable opportunity to enforce it. In the public hearings the grounds of reason and justice on which this provision in the bill is based were admitted on all hands. Counsel for the railroads accepted it. Your committee is of the opinion that this is one of the most important safeguards provided in the bill for the small stockholder. His right to just compensation will for the future exist not only in theory but also in fact.

Machinery for making the protection available: In general, the machinery and the methods are those for condemnation proceedings. Appropriate jurisdiction is conferred upon Federal courts. The carrier is under a duty to institute the proceedings. The method of enforcement, however, is not by penalty, but by giving the stockholder himself the privilege to institute the proceedings if the carrier fails to do so. The value of the stock, the just compensation to be paid, is fixed in the first instance by the commission. The report of the commission is not binding upon the court but is to be given the effect of the report of a master in chancery.

TAXATION

In order to enable the carriers which have obtained the commission's approval of a plan of unification under this title to carry out the plan without being unduly burdened by transfer taxes, section 214 provides that no tax shall be levied by the United States or by any State in respect to any issue, sale, delivery, or transfer of any security, or any agreement to sell, or memorandum of sale of, any security involved in the proposed unification. It is to be noted that this exemption extends only to securities and that the provisions of State laws relating to grants, assignments, transfers, or other conveyances of any interest in real or personal property (other than securities) are not affected by the bill.

The section also provides that gain from the sale or other disposition of property or income from any distribution in connection with the unification shall not be taxed by a State or any political subdivision thereof except to the extent that moneys are received from time to time from such transaction. This in effect does not relieve the carriers from State income taxes but merely postpones the time for the collection of the taxes, as in the case of the provision relating to Federal taxation. It is further provided that a unification shall be held to be a reorganization as that term is used in Part I of Title II of the revenue act of 1926. The effect of this latter provision is to subject the carriers which have entered into a plan of unification approved by the commission, to Federal taxation to the same extent that they would be taxed if they were parties to a reorganization as above referred to. Briefly, the legal effect is that gain will be recognized only to the extent that cash is received, with an appropriate adjustment of the basis upon which gain from a future sale is computed, and depreciation and depletion allowed.

APPLICATION OF EXISTING LAWS

As heretofore explained, paragraph (2) of section 5 of the present law is the provision under which the commission has been considering and approving or disapproving applications of carriers for control of other carriers, through lease, purchase of stock, or in any other manner not involving the consolidation of the carriers into a single system for ownership, management, and operation. Applications under this paragraph have varied from a short-term experimental lease of a carrier in the hands of a receiver to a lease for 999 years of all the properties of a carrier and the acquisition of the stock issued by such carrier. In fact, some applications have provided for corporate mergers, but none of these has been approved.

The committee considered very carefully the policy which should be applied to the applications under this paragraph and has reached the following conclusions:

(1) No applications should be received under this paragraph after the new bill becomes law. (See sec. 3 (2) of the bill.)

(2) The standards prescribed in the bill for the determination of the public interest should be considered by the commission in connection with pending applications the consideration of which is continued under paragraph (2) of section 5. (See sec. 3 (2) of the bill.)

(3) Many of the pending applications propose acquisitions of control involving carriers of importance, affecting more than a small territory, or presenting substantial problems of policy. The further consideration of these applications, because of their nature, should continue under the new bill rather than under the present law. In order to meet this situation it is provided that the commission may require that further or supplemental proceedings upon the application be had under the new bill, if the commission believes that the public interest will be promoted more effectually by proceeding under the new bill rather than under the present law. It will not be necessary, however, that entirely new proceedings be instituted under the new bill. (See sec. 215 (1) of the bill.)

(4) Many of the pending applications propose short-term leases, or leases of carrier property where control through stock ownership is already vested in the lessee carrier, or other acquisitions of control which may well be authorized under the present law. Under the bill the commission is authorized to continue the consideration of these applications under the present law, subject, however, to the provision that its determination of public interest must be made in accordance with provisions of the new bill. Obviously it was impossible to describe with accuracy the classes of cases which should be subjected to the provisions of the new bill and those minor cases the consideration of which could continue under the present law. Consequently it was necessary to place upon the commission the responsibility of determining whether or not the public interest required the transfer. (See sec. 215 (1) of the bill.)

In order that the evidence produced before the commission in proceedings under paragraph (2), (4), or (5) of section 5 prior to the enactment of the bill may be preserved and made available in future proceedings under the bill it is specifically provided in section 215 (2) that all such evidence, and abstracts or written materials based upon such evidence, shall be preserved and shall be available to the commission. If any evidence is so used, however, it is provided that it be made a part of the record in the proceedings by reference or otherwise.

REMEDIES OF STOCKHOLDERS EXCLUSIVE

Section 216 provides that the remedies afforded by the bill shall constitute the exclusive remedies of stockholders of any carrier in opposition to the exercise of any authority or power under the bill. As hereinbefore stated, such remedies are ample to protect the rights of dissenting stockholders who are not in accord with a plan of unification.

REGULATIONS

Section 217 grants to the commission authority to prescribe such rules and regulations as it may deem necessary for carrying out the provisions of the bill. It was thought that such a provision was necessary in view of the fact that the general grant of authority to the commission to make rules and regulations under sections 12 and 17 of the interstate commerce act might not cover all matters contemplated by the bill.

REPEALS

Section 3 of the bill provides for the repeal of paragraphs (4), (5), and (6) of section 5 of the interstate commerce act. These are provisions relating to consolidations which were added by the transportation act of 1920, for which the new bill is a substitute.

Paragraph (2) of section 5 of the interstate commerce act is amended by section 3 (2) of the bill so as to provide that no future applications shall be made under that paragraph. This amendment is necessary in in view of the policy adopted by the committee to make all future unifications subject to the provisions of the bill.

SHORT TITLE

The act may be cited as the "railway consolidation act of 1928."

SEPARABILITY OF PROVISIONS

Your committee felt that the bill should be treated as a unit, as it might become impossible to administer in the event that certain provisions were held unconstitutional. Therefore the usual section dealing with the separability of provisions which was included in former bills was omitted.

PROPOSED NICARAGUAN CANAL

The Senate resumed the consideration of the joint resolution (S. J. Res. 117) authorizing an investigation and survey for a Nicaraguan canal.

Mr. BURTON. Mr. President, I do not rise to oppose this joint resolution, provided its purpose be restricted to obtaining information or to investigation. There are, however, certain criticisms which I wish to make upon it which in its original form was, as I think, quite open to objection.

It is of vital importance that there be a careful examination of the Panama route, which, in accordance with the latest re-

ports made, furnishes the best promise for an enlargement of facilities.

There is another route which was only casually examined by the Isthmian Canal Commission, created by the act of March 3, 1899, which is certainly worthy of further attention. That is known as the San Blas route—a route across the Isthmus from the Bay of San Blas, some miles east of the existing Panama route, and extending to the River Bayamo, which empties into the Bay of Panama. This route is only 30 miles in length. It would make possible a sea-level canal, which all the projectors of any of these enterprises have maintained was the object most to be desired. It presents a very serious difficulty, in that for 5 miles ships would have to go through a tunnel; but that has been declared feasible by competent engineers. There would also be necessary, on both sides of this tunnel, very deep cuttings for about 3 miles on one side and 2 miles on the other; but it would have the manifest advantage which I have mentioned of a sea-level route and of a shorter distance.

If facilities for traffic across the Isthmus are to be enlarged—and I think at some day they must be—we should enter upon no undertaking except after the most careful consideration.

I must contradict statements which have been freely made in the newspapers, and to an extent on this floor, as to the urgency of immediate action. Whatever inference may be formed from the annual report of Colonel Burgess, I wish to call attention to his testimony before the Appropriations Committee of the House so recently as December 11 last.

Mr. McKELLAR. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Tennessee?

Mr. BURTON. I do.

Mr. McKELLAR. I desire to ask the Senator a question. I am very much interested in what he says about a new route, about 30 miles, did he say, from the present Panama route?

Mr. BURTON. It is not that distance from the present Panama route. The 30 miles to which I referred was the distance across the Isthmus.

Mr. McKELLAR. How far did the Senator say it is from the Panama Canal?

Mr. BURTON. I think about 20 miles; something like that.

Mr. McKELLAR. Has the Senator investigated to see whether the provisions of the Clayton-Bulwer treaty and, afterwards, the Hay-Pauncefote treaty of 1901 would apply to the new canal if one were dug there?

Mr. BURTON. I do not think that after the Hay-Pauncefote treaty of 1901 or 1902 was ratified any objection could be made to the construction by the United States of any canal across any isthmus in that locality.

Mr. McKELLAR. Even though it were that close to the present Panama Canal? The Senator may be right; I do not know; but I think a question would be raised about it.

Mr. BURTON. At any rate, it is perfectly clear that in view of the agreement having been made for the Panama Canal, as a logical sequence permission for another canal in the neighborhood would be readily granted; so I do not think there is any possible obstacle in that direction, although I have not considered that subject.

In regard to the time within which there must be further facilities, I wish to read from the testimony of Colonel Burgess, Governor of the Canal Zone, given on December 11 last. Mr. BARBOUR, chairman of the subcommittee, asked him this question:

Governor, what can you tell us with respect to the ratio of your present traffic to the total capacity of the canal? Your traffic is increasing quite materially, according to these figures you have given us, except that there has been a slight decrease during the first five months of this fiscal year.

That would be from July 1, 1928, to December 1, 1928.

Colonel BURGESS. Yes, sir; we are taking through 19 ships per day in 1928. We can take about 54 through. That is roughly about 40 per cent of our capacity.

Mr. TABER. You mean you can take 54 ships through in one day?

Colonel BURGESS. Yes, sir.

Mr. TABER. And you are now taking 19?

Colonel BURGESS. Yes, sir.

Mr. TABER. That is your average?

Colonel BURGESS. Nineteen includes the Navy and Army ships, which occupy the canal just as much as the commercial ships.

Mr. TABER. And 54——

Colonel BURGESS. Is the maximum capacity of the locks.

Mr. CLAGUE. That is 24-hour service?

Colonel BURGESS. Twenty-four-hour service; yes, sir.

Mr. BARBOUR. According to your figures for 1928, you took care of 17.63 ships.

Mr. TABER. That is, 17.63 commercial ships.

Colonel BURGESS. Those are the ships that pay tolls, but the Navy ships occupy the locks just the same as the others.

Mr. BARBOUR. I understood you to say in connection with the first figures that you have given us for 1928 that the average was 17.66.

Colonel BURGESS. That is commercial ships; yes, sir.

Mr. BARBOUR. I understood you to say including——

Colonel BURGESS. No, sir; it was 19 including the Navy ships.

Mr. BARBOUR. That is, excluding.

Colonel BURGESS. Yes, sir; excluding, the figure is 17.63.

Then a question was asked as to when the traffic was at the peak.

Colonel BURGESS. It has peaks in the winter months, December, January, February, and March, and occasionally October is among the peak months.

Mr. TABER. How high up is that?

Colonel BURGESS. The difference is not very marked. There is a difference of about an average of just one lockage per day.

Mr. TABER. About one lockage per day?

Colonel BURGESS. Yes, sir; that is the difference between the peak and the average.

Mr. TABER. What is the peak that you have put through in a day?

Colonel BURGESS. We have put through 35 commercial ships. On one occasion we combined the number of commercial ships with a great many Navy torpedo boats and submarines and the total went up to 53.

Mr. TABER. Is that 12-hour service, daytime service?

Colonel BURGESS. No, sir; that was practically continuously during the night.

Then the question was asked—and this is pertinent to this inquiry—when an increase in lockage facilities would be needed.

Mr. BARBOUR. Have you made any estimate of the time when you will have to increase the lockage facilities?

Colonel BURGESS. As nearly as we can tell, the increase will not be more than 10,000,000 tons per decade. We are transmitting 30,000,000 tons now. We can take 60,000,000 before we need the third locks. That indicates a period of about 30 years before we will need the third locks.

Mr. TABER. How is the water supply?

Colonel BURGESS. The water supply will be ample when we get Alhajuela completed.

The report of the hearing gives a great deal of other detail as to the time during which boats pass through the canal, and mentions the fact that at night fogs are somewhat of an obstacle, though unquestionably this disadvantage could be overcome by an efficient system of lights.

Mr. President, I was very familiar with the controversy in regard to the selection of a route, and it may not be without interest to the Senate to give somewhat the history of the matter.

Prior to the year 1899 the opinion of the people of this country seemed to be almost unanimous in favor of the Nicaraguan route. A number of surveys had been made. President Grant sent General Comstock, with whose work as an engineer he had been familiar while in the Army, and General Comstock reported favorably on the Nicaraguan route. Divers reports were made, but they were all more or less superficial and incomplete, differing very widely in the estimate of cost, differing also as to the exact route to be chosen across Nicaragua.

Senator Morgan, that great Senator from Alabama, was the untiring advocate of the Nicaraguan route, and in an issue of the CONGRESSIONAL RECORD, I think for February 6, 1902, he quoted a vast array of authorities, beginning with Alexander von Humboldt, which seemed to be conclusive in favor of the Nicaraguan route.

There was also another reason why that was preferred. De Lesseps had commenced the Panama Canal. It was known as a French enterprise. So long ago as the administration of President Hayes, the warning was issued that whatever canal was constructed should be under the control and management of the United States. So the Panama route was regarded as an alien enterprise.

In the year 1899 a river and harbor bill was framed carrying an appropriation, as it passed the House, of somewhat less than $40,000,000. To that bill the Senate added an amendment appropriating $10,000,000 cash and making an authorization of $115,000,000 for the construction of a Nicaraguan canal.

The House, while favoring the Nicaraguan canal, did not believe in provision by the Senate for such a disproportionate amount of the total. If the question had been left to a vote, undoubtedly, whatever the preference might have been for the Nicaraguan route, or the desire for a speedy completion of a canal, that amendment would have been voted down. The two Houses by their conferees entered into consideration of the

subject. The Senate conferees were Senators Frye, White, and Elkins. The House conferees were Mr. Reeves of Illinois, General Catchings, who recently died in Mississippi, and myself. As is true of many other bodies in which I have served, I am the sole survivor of that conference.

Mr. FESS. Mr. President——

The PRESIDING OFFICER (Mr. COUZENS in the chair). Does the junior Senator from Ohio yield to his colleague?

Mr. BURTON. I yield.

Mr. FESS. I remind the Senate that my colleague, who now has the floor, was at the time to which he refers the chairman of the House Committee on Rivers and Harbors.

Mr. BURTON. That is true. A compromise was drawn up by me between the disagreeing votes of the two Houses, the House making no provision for any canal and the Senate authorizing the expenditure of $125,000,000 for the Nicaraguan route.

The argument was made that we had never had a thoroughly adequate survey of the Nicaraguan or any other route. The proposition urged by the Senate was that a commission be appointed to investigate all routes, for whose work $1,000,000 should be appropriated, and who should report on the best and most feasible route, to be controlled, managed, and owned by the United States.

I remember a dramatic incident which followed the presentation of that compromise. The Senate conferees refused to agree without the approval of Senator Morgan. They sent for him to come to the committee room, and I can remember most distinctly his standing at the door of the room of the Committee on Commerce when the proposition of compromise was placed before him. He nodded his head and said, "That is all quite all right."

The commission was thus agreed upon. They entered upon their work; they went to Europe, and spent considerable time in Paris. The commission, I may say, included some of the very leading engineers of the United States. It was presided over by Admiral J. G. Walker, and included Mr. Albert Noble, a great engineer, the constructor of the tunnel leading to the Pennsylvania Station in New York City; General Ernst, who was one of the most famous of the engineers of the Engineer Corps of the Army; General Hains, another member of the Engineer Corps; Mr. Morrison, who had been educated as a lawyer but who, by reason of his facility in the trial of a case in which engineering principles were involved, was advised to take a course in engineering, and became an engineer. He was the trusted adviser of some of the leading organizations engaged in transportation and other enterprises in the United States. There was also on the commission Professor Burr, of Columbia University; Mr. Haupt, of Pennsylvania; and ex-Senator Pasco, of Florida, who was the legal adviser of the commission of nine. Prof. Emory R. Johnson, of the University of Pennsylvania, was the economic adviser.

That commission divided into subcommittees and investigated particularly the Nicaraguan and the Panama routes. Some hundreds of engineers and others were engaged to make surveys. The examination of the Panama route, and especially of the Nicaraguan route, was far and away more thorough than any examination that had ever been made before.

While the commission was making the investigations the House became somewhat impatient, and a bill was brought forward by Mr. Hepburn, of Iowa, committing the Government to the Nicaraguan route. That bill was passed, I think, on the 1st day of May, 1900, with only 35 negative votes. I was one of the 35, and with me were Mr. Moody, afterwards a Justice of the Supreme Court; Mr. Hitt, chairman of the Committee on Foreign Affairs; Senator GILLETT, now a member of this body; and Mr. Cannon, chairman of the Committee on Appropriations. There was vigorous opposition to the passage of the bill making committal to the Nicaraguan route.

After the measure had passed the House it was held back under the influence of the administration. I can now tell what could not easily have been told then. It was held back by the influence of Secretary Hay and President McKinley, because it was thought that it was in violation of the Clayton-Bulwer treaty, and also that it was not quite in accordance with that comity which should exist between the United States and Great Britain.

In 1902 another bill was passed committing the Government to the Nicaraguan route.

Mr. McKELLAR. That was in the House?

Mr. BURTON. That was in the House. That again was delayed under the influence of the administration. I think there were only two negative votes against that measure in the House.

After the first vote in the House three reports were made by the Isthmian Canal Commission. They were somewhat belated, and there had been a good deal of impatience because earlier action was not taken by that body. The first report was merely preliminary and not of special significance. The second report was distinctly favorable to the Nicaraguan route.

I cite the language to my good friend the Senator from New Jersey of an extract from the report which I think explains in a measure the reason why the Nicaraguan route was selected:

> After considering all the facts developed by the investigations made by the commission and the actual situation as it now stands, and having in view the terms offered by the new Panama Canal Co., this commission is of the opinion that the most practicable and feasible route for an Isthmian canal to be under the control, management, and ownership of the United States is that known as the Nicaraguan route.

Mr. President, as I was in frequent communication with the chairman of the commission, Admiral Walker, and know something of the history of that report, I think I should state it to the Senate. All during this time a majority of the commission thought that from an engineering and commercial standpoint the Panama route was the better of the two. That was especially true of Mr. Morrison, one of the ablest members of the commission, who did not think the Nicaraguan route was even feasible.

The new Panama Canal Co., as it was called, had been formed after the first one had gone into bankruptcy. The later company, however, was in financial difficulties like the first, and the commission entered into negotiations with its officers to see on what terms the new Panama Canal Co. would sell out its franchise and accept compensation for the work which it had done on the Isthmus, which was very considerable. The new Panama Canal Co. adhered very strictly to the figures of $119,000,000. The Isthmian Canal Commission thought that figure altogether too high and regarded it as exorbitant. It was the earnest desire of the members to make the most favorable bargain possible, and most of them thinking the Nicaraguan route was feasible and not desiring to pay this exorbitant figure, and, still further, not being able to acquire the complete title of the French company, for their offer was not to sell out entirely at first, but to invite the United States to become a stockholder in the company and join with them, still maintaining the corporate existence of the company as a French organization, expressed themselves more vigorously than ever in favor of the Nicaraguan route. I think I can give an explanation of that report in 1901. That causes me to criticize the provision contained in the pending joint resolution on page 4, lines 17 to 22, which read as follows:

> That the President is hereby authorized to cause to be made, under the direction of the Secretary of War and the supervision of the Chief of Engineers, a full and complete investigation and survey for the purpose of revising and bringing down to date the report of the Isthmian Canal Commission transmitted to Congress December 4, 1901.

I do not think that would be quite fair or adequate to meet the situation because that was the report which was friendly to the Nicaraguan route made under the circumstances which I have detailed.

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

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from New Jersey?

Mr. BURTON. Certainly.

Mr. EDGE. I fully concur in the Senator's suggestion as I understand it. I think the language was incorporated when the resolution was drafted more for the purpose of permitting the engineers to utilize, as far as they in their professional judgment thought wise, the borings or surveys or facts from the standpoint of topography, depths of river, and so on, that were contained in the Isthmian Canal report, but certainly there was no intention that the conclusions of the Isthmian Canal Commission should in any way influence the further survey.

Mr. BURTON. Of course, there were three reports. I would suggest this amendment: In line 21, page 4, change the word "report" to "reports," and in line 22, strike out the words "transmitted to the Congress December 4, 1901," so that it may read "for the purpose of revising and bringing down to date the reports of the Isthmian Canal Commission."

Mr. EDGE. That is quite satisfactory.

Mr. BURTON. I make the motion that the amendment be adopted.

Mr. ROBINSON of Arkansas. Mr. President, may we have the amendment stated again?

Mr. BURTON. I will state it gladly. On page 4, line 21, strike out the word "report" and insert the word "reports,"

and in line 22, strike out the words "transmitted to Congress December 4, 1901."

Mr. McKELLAR. Would it not be better to merely strike out the words "December 4, 1901," because all three of the reports were actually transmitted to Congress, as I understand.

Mr. BURTON. But the word "transmitted" rather seems to point to one report; not necessarily, perhaps. We would have to change the word "report" to "reports."

Mr. McKELLAR. Yes; and then strike out the words "December 4, 1901."

Mr. BURTON. "The reports from the Isthmian Canal Commission transmitted to Congress." I think that would be satisfactory. Change the word "report" to "reports" and strike out the words "December 4, 1901."

Mr. EDGE. I accept the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 4, line 21, strike out the word "report" and insert in lieu thereof the word "reports," and in line 22 strike out the words "December 4, 1901," so as to make the sentence read:

That the President is hereby authorized to cause to be made, under the direction of the Secretary of War and the supervision of the Chief of Engineers, a full and complete investigation and survey for the purpose of revising and bringing down to date the reports of the Isthmian Canal Commission transmitted to the Congress—

And so forth.

The amendment was agreed to.

Mr. BURTON. Mr. President, I think now, in justification of the selection of the Panama route, I ought to read extracts from the official report of the commission as made in February, 1902.

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

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Missouri?

Mr. BURTON. I yield.

Mr. HAWES. In that portion of the joint resolution just mentioned there is a reference to the form of the commission. As an authority on this subject, did not the Senator find in his investigations that on both the Panama Commission and the Nicaraguan Commission the Government always used civil engineers in making their investigations?

Mr. BURTON. The Isthmian Canal Commission was one which was to examine all routes. It was not the Panama route nor the Nicaraguan route. A number of prior reports were made. I have referred to one personally transmitted to President Grant, which was made by General Comstock, a member of the Engineer Board of the United States. There were two reports on the Nicaraguan route made only a short time before the Isthmian Canal Commission was constituted. One was called the Ludlow Commission. Its report was rejected. The next commission was made up of Admiral Walker, General Hains, who was an engineer of the Army, and a third member whose name I have forgotten at the moment. That, I believe, answers the question of the Senator from Missouri as to ignoring the engineers of the Army. I think the selections were very far from involving anything like discrimination against the Army engineers. Those were selected who, it was thought, would do the best work.

I wish to read now from Senate reports, volume 5, Report 783, the conclusions of a minority of the Committee on Interoceanic Canals, which led them to favor the Panama route:

The advantages stated by the commission concerning the Panama Canal are:

1. It is 134.57 miles shorter than the Nicaragua from sea to sea (being 49.09 miles by Panama as against 183.66 miles by Nicaragua).

2. It has less curvature, both in degrees and miles, being but 22.85 miles of curvature as against 49.29 on the Nicaragua, and but 771 degrees for Panama as against 2,339 degrees for Nicaragua.

3. The actual time of transit is less, being but 12 hours of steaming by Panama, as against a minimum of 33 hours of steaming by Nicaragua; that is, of one day of daylight as against three days of daylight (for the canal must be navigated by day exclusively at first, and, to a great extent, always, especially by large ships, which chiefly will use it. The commission's plan does not provide facilities for navigation by night).

4. The locks are fewer in number, being but 5 on the Panama to 8 on the Nicaragua.

5. The harbors are better, those of the termini of the Panama being good and already used by the commerce of the world, while at the termini of the Nicaragua there are no harbors whatever.

6. The Panama route traverses a beaten track in civilization, having been in use by the commerce of the world for four centuries, while the Nicaragua route passes through an unsettled and undeveloped wilderness.

7. There already exists on the Panama route a railroad perfect in every respect and equipped in a modern manner, closely following the line of the canal, and thus greatly facilitating the construction of the canal, as well as furnishing a source of revenue, and included in the offer of the Panama company.

8. The annual cost of maintenance and operation of the Panama Canal would be $1,300,000 less than that of the Nicaragua (which sum capitalized is the equivalent of $65,000,000).

That capitalization is computed on rather a low rate of interest, but it is based on the fact that some of the bonds issued for the construction of the Panama Canal were issued at 2 per cent and they had the privilege of being used as security for national-bank notes, and hence were floated at a very low rate.

9. All engineering and practical questions involved in the construction of the Panama are satisfactorily settled and assured, all the physical conditions are known, and the estimates of the cost reliable, while the Nicaragua involves unknown and uncertain factors in construction, and unknown difficulties to be encountered, which greatly increase the risks of construction and render uncertain the maximum cost of completion.

In addition to these facts stated by the commission are the two following, not referred to by them, but which have become of controlling importance, namely:

10. It is recognized that a sea-level canal is the ideal. The Panama Canal may be either constructed as a sea-level canal or may be subsequently converted into one. On the other hand, no sea-level canal will ever be possible on the Nicaragua route.

11. No volcanoes exist on the line of the Panama Canal nor in its neighborhood. On the other hand, the Nicaragua route traverses an almost continually volcanic tract, which has been during the last three-quarters of a century probably the most violently eruptive in the Western Hemisphere. The active volcanoes, Zapatera and Ometepe, rise actually from the waters of Lake Nicaragua.

12. At Panama earthquakes are few and unimportant, while the Nicaragua route passes over a line of well-known crustal weakness. Only five disturbances of any sort were recorded at Panama during 1901, all very slight, while similar official records at San Jose de Costa Rica, near the route of the Nicaragua canal, show for the same period 50 shocks, a number of which were severe.

13. As a practical matter, the masters of vessels prefer the Panama route for safety, convenience, and shortness of transit, for its less curvature and risks, and for the lower insurance rate by that route.

In the same report there is set forth at very considerable length a more elaborate treatment of the subject of volcanoes and earthquakes in the Nicaragua region. Angelo Heilprin, one of the most famous geologists of that day, is quoted at length. Indeed, Members of the Senate will have noticed that in the last day or two an earthquake has been recorded in Guatemala which is not a very great distance from the Nicaraguan route.

These considerations led to the selection of the Panama route. In considering a conditional measure—which I will explain in a few moments—the question was elaborately argued by Senator Hanna in the spring or early summer of 1902. I remember listening to him as he presented his argument. He was crippled by rheumatism, and nearly all the time had to sit in a chair, not being able to rise, but he made one of the most elaborate and forceful arguments ever made in this body. The result was that the membership, which at first had been altogether friendly to the Nicaraguan route, was turned in favor of Panama, on the crucial vote 42 against 33, though on the final vote the majority was much larger.

The Nicaragua Canal Co. of America, which had been incorporated to build the canal, was largely represented here. That company was formed in the early eighties but later failed. There were divers Senators who advocated subsidizing that company. Among them was Senator Morgan, who made a very able speech in this Chamber. Indeed, if anyone wishes to find a well-constructed argument in favor of governmental subsidies to private enterprise, I would recommend that he read that speech of Senator Morgan. Senator Sherman, of Ohio, who was more conservative in this regard, published an article in the Forum Magazine also favoring the giving of a subsidy to or guaranteeing the bonds of the company.

The result was the passage of the bill to the effect that President Roosevelt should proceed with the construction of the Panama Canal provided proper arrangements could be made as to acquisition of the necessary title for its location and on reasonable terms. If he were unable to proceed in that regard, then he was instructed to proceed with the construction of a canal along the Nicaraguan route. It will be noted, Senators, that this was giving to President Roosevelt almost unprecedented authority in the prosecution of a great public work.

I may say before passing to the subject of the treaty that Senator Morgan again acquiesced in the passage of that bill.

He was again, I may say, circumvented. He was so serenely confident that no arrangement could be made for the construction of the canal along the Panama route that, in view of the alternative under which the Nicaraguan route was to be adopted, he consented to the passage of the bill. It passed both Houses by a very large majority.

Just briefly I may dwell upon what followed. A treaty was negotiated with the executive department of Colombia, but the legislative body refused to ratify it, and for a time it seemed as if the selection of the Nicaraguan route would become necessary. While that treaty was pending, in October or November, 1903, a revolution occurred at Panama, under which that Province threw off the yoke of Colombia. The United States recognized the revolutionary government at an early date, and then proceeded to make a treaty with the Government of Panama under which the necessary rights were granted to the United States. That was the treaty under which we entered upon the Isthmus and constructed the canal.

The United States Government, and particularly Mr. Roosevelt, have been very much blamed for having instigated that revolution. I do not think investigation will justify that accusation. It is evidently true that our diplomatic officials on the Isthmus knew that something of the kind was brewing. I may relate one incident, a bit humorous in character, which occurred. On the day of the insurrection the Assistant Secretary of State of the United States sent a cablegram to our consul on the Isthmus, saying:

Understand that a revolution has occurred on the Isthmus. Please send us details.

The singular feature of the case is that that cablegram arrived from four to six hours before the revolution occurred. So it is perfectly evident that it was known that something was likely to occur, but I do not believe there was any instigation on the part of any official of the United States. President Roosevelt took a very stalwart ground in favor of asserting our rights there, and of protecting Panama and recognizing the new government. After delays we went ahead with the canal.

It was my good fortune, as I think, to be associated with another phase of this question. There was delay in the decision as to whether the canal should be a sea-level canal or a lock canal. De Lesseps had said that the reason why he selected Panama rather than Nicaragua as the site of an interoceanic canal was because it was possible to construct a sea-level canal on the Panama route but was not possible on the Nicaraguan route.

A commission of engineers was appointed, made up largely of representatives from abroad, chosen by President Roosevelt, to go down to the Isthmus and examine into the question of whether the canal should be of the sea-level or lock type. I think there were 13 members of the commission, including the leading German engineer on canals, the engineer who had charge of the Manchester Canal, and others. They decided by a vote of 8 to 5 in favor of the sea-level canal. The members of the commission from the United States were for the most part in the negative on that proposition. One of the members told me at one time the reason which in his mind explained that decision was this: He said the members gathered together and called at the White House on President Roosevelt for his instructions. The President stated to them, "Now, gentlemen, I want the very best canal." They interpreted that to mean that he wished a sea-level canal and brushed aside all considerations of engineering, of expense, of difficulty, and thus decided in favor of a sea-level canal, though probably it was contrary to their best judgment as to what was the most desirable plan. Be that as it may, our engineers on the Isthmus afterwards concluded that the lock plan was best, three locks with a lift of 28½ feet each at Gatun and corresponding locks on the Pacific side.

The chief engineer was Mr. Stevens, who had a prominent part in the control of the railways, I believe, in Siberia during the Great War. He said that the force there were discouraged and unless the decision was for a lock plan he feared the force would disintegrate. At the request of certain executive officers and engineers placed in contact with me, I took up the cause of the lock plan. It had been discussed for a long while here in the Senate, and I think the dominant opinion was in favor of the sea-level canal. I think the Senator from Indiana [Mr. WATSON] will remember that discussion in 1906.

Mr. WATSON. Yes; I remember it very well.

Mr. BURTON. Also, the Senator from Nebraska [Mr. NORRIS] was a Member of the House at that time. The question was discussed at very considerable length, and almost immediately after the discussion a vote was taken on it and by a very large majority the lock plan was adopted. Soon after the Senate acquiesced.

This is, to an extent, a digression from the remarks I have been making, but it is an important part of the history of the canal. Originally it had been intended that there should be a sea-level canal. I do not think at that time that would have been feasible. It would have required at the Culebra Cut so considerable a depth that it would have taken years to provide for the slides which occurred, and which impeded progress through the channel. It would also have left the Chagres River as an almost uncontrollable torrent, and thus an almost insuperable obstacle to the building and operation of the canal. The adoption of the lock plan and the creation of a great lake above by the Gatun Dam makes the Chagres River, which otherwise would have been destructive, a constructive influence. It also provides a most excellent channel for a very considerable portion of the canal.

The rest of the history of this great enterprise is probably familiar to all of the Senators. In many ways it may be said to be the greatest engineering work ever undertaken in the world. It seemed impossible; and undertakings by private companies, one after another, failed completely. The Government of the United States declared it to be its policy that there be a canal controlled and owned by the United States; and that led, as I think, inevitably to the conclusion that the Government itself must take up the work.

The original cost is said to have been about $242,000,000; but to that must be added interest during the long years in which it was under construction, fortifications, reparations, and improvements, so that the cost now may be counted as approaching double that sum.

I think Colonel Burgess gives an estimate as to that. He charges to military phases $113,000,000 and to commercial activities $273,000,000; but that includes a great deal of incidental property, such as coaling places, facilities for the repairs of ships, and so forth. Mr. Barbour asks him this question:

So at the present time you charge about $242,000,000 for actual canal investment?

That question he answered in the affirmative; and then it is stated that the capital investment would be figured at about $386,000,000.

The canal now, contrary to all prognostications and expectations, is a paying institution.

Mr. President, to sum up what I have said in rather a long way——

Mr. KING. Mr. President, before the Senator reaches the conclusion, may I ask a question?

Mr. BURTON. Certainly.

Mr. KING. I was not quite clear, from the statement made by the Senator—perhaps he did not feel it necessary to go into that question—why, in the light of this report made by Rear Admiral Walker and signed by Samuel Pasco, Alfred Noble, George S. Morrison, Peter C. Hains, William H. Burr, and O. H. Ernst, in which they recommended the construction of the canal over the Nicaragua route, that was not taken in preference to the Panama route.

Mr. BURTON. I have partly dwelt on that already. I am quite familiar with the circumstances existing at that time. A majority of the members of the commission of nine perhaps thought the Nicaraguan route feasible. They regarded the Panama route as impossible because it could not be controlled, managed, and owned by the United States. The French company held to their ownership tenaciously and for a long time refused to make any offer of sale. Finally they did make an offer which was regarded as altogether unreasonable—$119,000,000.

Thus, as far as the Panama route was concerned, the commission were against a stone wall. It could not be acquired and owned by the United States and they were directed to recommend a canal so owned and controlled. The possible price at which they could acquire the Panama route was altogether unreasonable, they thought. They afterwards bought it for $40,000,000. I do not know to what extent the report in favor of the Nicaraguan route may have been colored by a desire to obtain more favorable terms. I do not want to ascribe that motive to Admiral Walker and his associates, but possibly that had something to do with it.

Mr. KING. If the Senator will pardon me, I have made quite an exhaustive research of all the reports, going back for 150 or 200 years, because there were some investigations that went back to the seventeenth century.

Mr. BURTON. Oh, before that; with Balboa about 1517. That is, the proposal was made in 1517 that there might be a canal there.

Mr. KING. Yes; but there were some surveys away back 150 or 200 years ago?

Mr. BURTON. Yes.

Mr. KING. And it seemed to me, from all of the researches which I have made and the reports which I have read—and I have examined perhaps 15 or 20—that Panama furnished a far better location for a canal than Nicaragua; and I was a little surprised at the report of Admiral Walker recommending Nicaragua, in the face of what seemed to me to be superior opportunities for the construction of a canal over the Isthmus of Panama.

Mr. BURTON. The Senator can see the restraints under which they labored in making that report. In the first place, the Panama Canal was ruled out because the United States could not own and control it.

Mr. KING. There were political considerations.

Mr. BURTON. Yes.

Mr. KING. Another question: Why was not the San Blas route selected, rather than the present route?

Mr. BURTON. I think that at a very early date the members of the commission concluded that it was too much of an undertaking to engage in the building of a canal which had not even been surveyed. Their predilection for the Panama route was very strong. Part of it had been dug already.

Mr. KING. That was largely because of the French work which had been done there?

Mr. BURTON. Yes. Of course, in our final location, we did not follow the French route. A good deal of their work was abandoned, and especially their machinery. If the Senator has ever been down there, he has probably seen the graveyard where so many dredges were left to rot, and all of that was charged in in the $119,000,000.

Mr. KING. One other question, and then I shall not interrupt the Senator further. Does not the Senator think, if a survey is to be made with a view to determining whether there is another practical or feasible route for a canal, that the authorization should be to examine the Isthmus of Panama to see if there may not be a canal constructed there that would be far more feasible and practical than the one in Nicaragua?

Mr. BURTON. I think so.

Mr. McKELLAR. That is provided in the present joint resolution.

Mr. BURTON. Is there anything besides the Panama route and routes across Nicaragua?

Mr. McKELLAR. No; it is the enlargement of the present route and the Nicaraguan route. I think that would take in, though, a route 20 miles from the Panama Canal. I am quite sure it would.

Mr. BURTON. I question that a little. I do not say that is the best route, but there are certain obvious advantages—it is at sea level and shorter—but, of course, it would have to go under that great tunnel, 200 feet high, at least, and probably more than that. They had figures, however, on the construction of that tunnel back in 1902, and the very highest estimate that was made for the construction at that time was $36,000,000.

Mr. McKELLAR. How large would it have been; does the Senator recall?

Mr. BURTON. About 5 miles in length.

Mr. McKELLAR. I mean, large enough to take through all ships?

Mr. BURTON. The original plan that they surveyed there was only for a 35-foot depth.

Mr. McKELLAR. I desire to say that the Senator has given us not only a remarkable demonstration of facts connected with this subject, but a remarkable demonstration of memory of these things that happened a great many years ago; and I want to thank him for the splendid contribution he has made to this debate.

Mr. BURTON. The Senator from Tennessee is very complimentary, and I thank him.

Mr. EDGE. Mr. President, further for the Senator's information, the Senator from Utah [Mr. KING] has suggested an amendment which will permit the engineers to investigate any other possible or practical route; so that, with the suggestion made by the Senator, if the joint resolution passes, we will be able to receive for the first time information as to that route.

Mr. BURTON. I think that ought to be done.

Mr. EDGE. I am somewhat familiar with the section the Senator speaks of.

Mr. BURTON. The San Blas route?

Mr. EDGE. Yes.

Mr. KING. If the Senator will pardon me, the only difference between the Senator and myself, if we are to pass the joint resolution at all, is this: I think the paramount object should be to make a survey of the Isthmus of Panama with a view to determining the most feasible route there of a canal that will parallel the present canal—when I use the word "parallel," I mean within a reasonable distance of it—and make the isthmian canal in Nicaragua a subordinate consideration. In other words, I think the best place for another canal, if we are to build one, is through the Isthmus of Panama rather than up in Nicaragua.

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

Mr. BURTON. I yield.

Mr. McKELLAR. In reference to the question asked by the Senator from Utah, I have no objection whatsoever to the enlargement of the inquiry. I think the more facts we get the better it will be; but there is one consideration that we shall all have to make about the matter, and that is this:

As the Senator knows, we were under a very restricted treaty obligation—I mean, restricted so far as America was concerned—in the Clayton-Bulwer treaty of 1850 and again in the Hay-Pauncefote treaty of 1901. I am not at all sure that another Panama route would not be subject to all of the restrictions in that treaty, and I know the enlargement of the present Panama route would be; whereas if we have a Nicaraguan canal, we can build it as a purely American enterprise, without the necessity of any treaty with any nation other than those three, one of which it would be built through, another one of which it adjoins, and another one of which claims some kind of interest there. Of course, it is necessary to get that information; but we shall have to consider that particular feature when we come to pass upon the matter finally.

Mr. BURTON. On the other hand, Mr. President, I can hardly conceive of our building a canal there without an international agreement. Certainly we should have to make treaties with the country or countries through which the canal should go.

Mr. McKELLAR. That is provided for in the joint resolution.

Mr. BURTON. And, then, suppose we were to go ahead in a foreign land with the construction of a canal: What assurance would we have that it would not be made the subject of attack? What regulation would exist for the ships of other countries going through it?

Take the Suez Canal, which was opened in 1869: We might say that that did not require any treaty, but really it did, and a treaty was made in regard to it. I do not quite think the way would be clear to build a canal, either in Panama or Nicaragua, without a treaty.

The Senator from Tennessee no doubt has in mind that we might build a canal where we would allow our boats to go through free of tolls, and charge tolls to other countries.

Mr. McKELLAR. I have not that in mind. I think what has been done in Panama has been very wisely done. I think that all nations ought to be treated absolutely alike, in so far as the use of the canal is concerned, but I do think that if America desires to protect any canal she may buy or build, she ought to have the right to protect it in any manner she sees fit.

I agree with the Senator that, so far as the uses of the canal are concerned, it ought to be used upon terms absolutely fair to all nations, including our own.

Mr. BURTON. But query: Whether we could protect it any better if we went ahead on our own initiative than we could under an agreement with other nations, by the terms of which it was to be protected against attack, and regulations made as to the passing and repassing of warships through it; that is a very essential part of any agreement like that.

Mr. McKELLAR. That might be more easily arranged after the canal was built, or at least after it was begun. If we build this other canal, I do not want our Government to have to get the permission of another nation or other nations, as we did on the occasion in 1901.

Mr. BURTON. At the same time, there would be a treaty.

Mr. McKELLAR. Yes; I think probably that is so.

Mr. BURTON. Briefly to summarize, I think all three at least of the routes that have been suggested should be examined carefully. Frankly speaking, by partiality or predilection would be for the enlargement of the Panama Canal as the simplest way of providing facilities for the future. I do not agree with those who regard the provision for additional facilities as immediate or urgent, because the Governor of the Canal Zone has said that at the present rate of increase it will be 30 years before additional facilities will be required. That is in very flat contradiction to what has been said in some quarters, but I have no doubt that his information is the best in regard to that.

We can hardly expect that in the future the traffic will increase at the same rapid rate that it has increased since the canal was opened in 1914. There is a slackening in the percentage of increase in practically all transportation agencies, and that will be true of the canal. The biggest item that goes through there is crude oil, next to that is lumber, and next to that grain, and then different articles.

It is a source of great rejoicing that the Panama Canal brings us not only into closer touch, by water transportation, with our own Pacific coast, and creates a new bond between the regions of the Pacific and those of the Atlantic, but it also brings us nearer to the west coast of South America. Perhaps some Senators may not have had their attention called to the fact that in going from New York to Buenos Aires the shortest mileage is not by the Atlantic all the way but to go through the Panama Canal, go down to Valparaiso, cross over the Andes, and go by rail to Buenos Aires. That is very materially a shorter route, though not an all-water route, than to go by the Atlantic exclusively.

We of course stand ready to build another canal, or to enlarge the present one. The results of this great enterprise have been so far-reaching, so splendid, that we should by no means shrink from making such additions or such new construction as may be necessary.

Mr. HAWES obtained the floor.

Mr. DILL. Mr. President——

The PRESIDING OFFICER (Mr. COUZENS in the chair). Does the Senator from Missouri yield to the Senator from Washington?

Mr. HAWES. I yield.

Mr. DILL. The Senator from Missouri is about to present another phase of this matter, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. EDGE. Before the clerk calls the roll——

Mr. DILL. I make the point, Mr. President.

Mr. EDGE. Will the Senator withhold that a moment? I really feel it will be rather difficult to get a quorum at this time, Saturday afternoon.

Mr. DILL. The Senator from Missouri is going to discuss a new phase of this subject.

Mr. EDGE. The Senator and I have had a thorough understanding as to his amendments, and I am proposing to accept them.

The PRESIDING OFFICER. Does the Senator from Washington insist on his point?

Mr. DILL. I make the point of no quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

Ashurst	Fess	McNary	Shortridge
Barkley	Frazier	Mayfield	Simmons
Bayard	Gerry	Moses	Smith
Bingham	Glass	Neely	Smoot
Black	Glenn	Norbeck	Steck
Blaine	Goff	Norris	Steiwer
Blease	Gould	Nye	Stephens
Bratton	Greene	Oddie	Swanson
Brookhart	Hale	Overman	Thomas, Idaho
Broussard	Harrison	Phipps	Trammell
Bruce	Hastings	Pine	Tydings
Burton	Hawes	Pittman	Tyson
Capper	Hayden	Ransdell	Vandenberg
Caraway	Heflin	Reed, Mo.	Walsh, Mass.
Couzens	Johnson	Reed, Pa.	Walsh, Mont.
Curtis	Jones	Robinson, Ark.	Warren
Dale	Kendrick	Robinson, Ind.	Waterman
Deneen	King	Sackett	Watson
Dill	McKellar	Schall	Wheeler
Edge	McMaster	Sheppard	

The PRESIDING OFFICER. Seventy-nine Senators having answered to their names, there is a quorum present.

Mr. HAWES. Mr. President, I desire to send to the desk a communication from the American Engineering Council and ask that it be read by the clerk.

The PRESIDING OFFICER. The clerk will read, as requested.

The Chief Clerk read as follows:

AMERICAN ENGINEERING COUNCIL,
Washington, D. C., February 20, 1929.

Senator HARRY B. HAWES,
United States Senate, Washington, D. C.

DEAR SENATOR HAWES: I wish to assure you that American Engineering Council, which represents officially 44,000 professional engineers and is the organ through which these engineers express themselves on all public questions of an engineering nature, support your amendment of January 28 on the Edge resolution (S. J. Res. 117).

The civilian engineers welcome an opportunity to serve their country along with other professions. It seems wise since Senate Joint Resolution 117 authorizes a commission to bring existing data up to date and to report on the feasibility and desirability of constructing an interoceanic canal through Nicaragua, a thing which has been a controversial subject for some time, it would seem wise to have upon this commission eminent civilian engineers so that the decision of the commission would have additional weight and be respected as the final decision of all classes of experts who are qualified to pass upon this subject.

It has been the history of many governmental undertakings, most notably and recently the Boulder Canyon Dam project, that once a qualified and impartial investigating commission has reported upon a project that its legislative path has been materially smoothed.

Your position is prompted by wisdom and foresight and American Engineering Council assures you of its support.

Yours sincerely,

B. R. VAN LEER,
Assistant Secretary.

Mr. HAWES. Mr. President, last year in the discussion of the flood-control legislation I made inquiry about the different engineering societies in the United States. I found that we have over 200,000 civilian engineers and a great national organization of 44,000 engineers, and that each State in the Union has a school for the instruction of engineers. It occurred to me that in carrying on the great work of flood control, the primary investigations of the Army engineers should be supplemented by the advice of civilian engineers.

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

Mr. HAWES. I yield.

Mr. FESS. I recall that in the discussion of the flood-control question that matter was considered favorably. Is there any objection to including civilian engineers with the Army engineers in the pending question?

Mr. HAWES. It is not in the joint resolution, and I shall in a few moments propose an amendment to that effect.

Mr. FESS. I should think such an amendment would be acceptable. I do not see any objection to it.

Mr. HAWES. I will submit my amendment now, and if there is no objection to it I shall be glad to discontinue the discussion.

The PRESIDING OFFICER. The clerk will read the proposed amendment.

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

On page 4, line 19, after the words "Chief of Engineers," insert "and such civilian engineers as the President deems advisable" and on page 5, line 16, after the words "Chief of Engineers," insert "and such civilian engineers as the President deems advisable."

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

Mr. HAWES. Certainly.

Mr. EDGE. I have no objection to the amendment. Of course, as indicated, it leaves it entirely optional with the President whether he shall appoint them, and then, of course, the limit of money which is to be expended is fixed in the appropriation. I agree thoroughly with the Senator from Missouri that civilian engineers would be necessary certainly for any completed project. Whether it is deemed necessary in the preliminary surveys I am not so positive; nevertheless, I am entirely satisfied to leave it to the judgment of the President.

Mr. BURTON. Mr. President, I was called out of the Chamber momentarily. What is the proposed amendment?

Mr. EDGE. It is the amendment of the Senator from Missouri and provides that the President shall have power to appoint civilian engineers with the Army engineers.

Mr. BURTON. That right has always been exercised.

The PRESIDING OFFICER. The question is on agreeing to the amendment submitted by the Senator from Missouri.

The amendment was agreed to.

Mr. HAYDEN. Mr. President, the pending joint resolution provides for an expenditure of $150,000 to bring down to date the engineering information originally compiled by the Isthmian Canal Commission in 1901 relative to the construction of a Nicaraguan canal. I shall vote for the resolution because I believe that the facts thus ascertained will be worth the price.

I can not allow this occasion to pass, however, without directing attention to the fact that the necessity for the construction of the Nicaragua canal will probably be long delayed. In the report made by the Senator from New Jersey [Mr. EDGE] upon the bill we are told that—

It has been indicated by the annual reports of the Panama Canal Commission that if the business of the canal continues to increase as it has during recent years, the capacity of the present canal will be taxed to its maximum capacity in 10 years or at the outside 15 years.

I might point out so far as one misstatement therein is concerned that there is no such thing as the Panama Canal Commission. That commission ceased to exist years ago and we now have only a Governor of the Panama Canal whose statements before the House Committee on Appropriations were read to the Senate by the Senator from Ohio [Mr. BURTON]. The most significant part of that testimony I wish to repeat. The chairman of the subcommittee of the House Committee on Appropriations asked the following question:

Mr. BARBOUR. Have you made any estimate of the time when you will have to increase the lockage facilities?

Colonel BURGESS. As nearly as we can tell, the increase will not be more than 10,000,000 tons per decade. We are transmitting 30,000,000 tons now. We can take 60,000,000 before we need the third locks. That indicates a period of about 30 years before we will need the third locks.

Thus if the Alhajuela Dam, the name of which has been changed to the Madden Dam in honor of the late chairman of the House Committee on Appropriations, the construction of which has been authorized and is now in progress, with an ample water supply for the use of the present locks, it will be 30 years before it will be necessary to add a third lock to the Panama Canal.

In the last annual report of the then Governor of the Panama Canal, Gen. M. L. Walker, this statement was made.

The traffic through the Panama Canal in the fiscal year just closed was greater than in any preceding fiscal or calendar year. This statement, made last year, is repeated for this. Traffic in the fiscal year 1928 was greater than that in the fiscal year 1927 by 18 per cent in number of commercial transits, 12 per cent in net tonnage, 11 per cent in tolls, and 7 per cent in cargo carried.

The growth of traffic has brought to the front considerations of the possibility of its exceeding the capacity of the canal, with the corollary of considering ways by which the capacity may be increased. Present traffic is considered to be between 45 and 50 per cent of that which the canal can handle, as constructed at present. The first move to provide for future increases and to assure sufficient depth of water in the cut and over the upper sills of the locks has been begun in the development of a supplementary water supply. A résumé of the essentials of this project is presented in a section devoted to additional storage at Alhajuela. It is believed that this, with the eventual construction of a third flight of locks, paralleling the present twin flights will increase the present capacity of the canal by about 70 per cent.

If the present capacity of the Panama Canal is 60,000,000 tons, as stated by Colonel Burgess, and if General Walker is correct in his estimate that the third locks will increase the capacity 70 per cent, or over 40,000,000 tons, the total capacity of the canal will then be 100,000,000 tons. If, as Colonel Burgess says, 30,000,000 tons are now being transmitted through the canal, and the rate of increase is 10,000,000 tons per decade, it will be 70 years before there will be any need for construction of the Nicaraguan canal.

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

Mr. HAYDEN. I yield.

Mr. DILL. The Senator surely has heard the chairman of the committee [Mr. EDGE] say so often that it will only take 10 to 15 years to have the canal facilities exhausted or used to their maximum. There must be something wrong here.

Mr. HAYDEN. I am quoting the words of the present Governor of the Panama Canal and his immediate predecessor who submitted this annual report on August 27, 1928.

Mr. DILL. I know, but I am quoting the chairman of the committee, upon whom I am supposed to rely for information on this subject.

Mr. EDGE. Mr. President, will the Senator yield at that point?

Mr. HAYDEN. Certainly.

Mr. EDGE. I do not want to take the time of the Senator, but the figures appearing in the RECORD are absolutely taken from the same report from which the Senator himself is reading. Some supplementary information has been received from the new governor, Governor Burgess, who has only been there three months, and from various testimonials of engineers who have realized the rapidly increasing, the unprecedented increasing transit since last June, when the report was made.

I think the Senator was not in the Chamber at the time when I read the report which was submitted in January, which was that the greatest number of transits in any month since the canal had been opened occurred in January, far in excess of any month in the year before; and the estimate, of course, is necessarily more or less guesswork on the part of those engineers. We can not visualize commercial traffic for 5 or 10 or 15 or 20 years. The fact remains that in each cycle of five years since the canal has been operated the traffic has more than doubled. In other words, the traffic in the second five years was double that of the first five years, and the traffic in the third five years was double that in the second five years. I do not say that we may expect that average to continue, but I do say that this is a red flag of warning. It is coming along with such rapidity that surely there can not be any reasonable objection to getting all the information in order to be prepared for a final decision on the part of Congress as to our future canal policy. That is all the joint resolution provides.

Mr. HAYDEN. I am going to vote for the Senator's resolution, but when he says the present Governor of the Canal Zone has only been there three months, I remind him that it has been the unvarying custom since the Panama Canal was completed to advance the engineer of maintenance to the governorship, and Col. Harry Burgess, who has occupied that position for the past four years, has recently been promoted to be Governor of the Panama Canal. His testimony before the House Committee on Appropriations last December, which was read to the Senate by the Senator from Ohio [Mr. BURTON] states positively that it will be 30 years at the present rate of growth before it will be necessary to add a third flight of locks. General Walker, his immediate predecessor as governor, makes a statement which leads to the conclusion that on the same basis it will be 70 years before it will be necessary to construct the Nicaraugua canal to take care of the traffic.

Governor Walker in his annual report for 1928 stated further:

The total net revenue from combined Panama Canal and Panama Railroad operations in the fiscal year was $20,621,314.82, the best showing for any year to date.

The increasing revenues have been made the occasion for proposals that the tolls be reduced, either on all traffic or on special classes of vessels. Policy in this respect is for determination by Congress. It is pertinent, however, for the administration of the canal to point out that heavy expenditures are yet due to be made for additions and replacements in the plant, for the adequate quartering of employees, for suitable retirement of employees grown old or disabled in this exacting service; that tolls at Panama are lower (by approximately a third at present) than the tolls at Suez; that reductions will benefit foreign vessels in foreign trade as well as United States vessels in domestic trade.

Then I direct the attention of the Senate to this final remark:

That the intercoastal lines are competing severely with the railroads, and a lowering of tolls may cripple the internal transportation system of the United States while reducing the Government's revenue, with offsetting benefits accruing only to limited special interests.

The Panama Canal tolls should not be lowered and I therefore heartily agree with everything Governor Walker has said except that last statement. The intercoastal steamship lines operating through the Panama Canal are not to any great degree competing with the transcontinental railroads of the United States, but the traffic through that canal is being used merely as an excuse by the railroads for making applications to the Interstate Commerce Commission for the privilege of carrying freight from one coast to another at a less rate than the railroads are willing to carry the same freight to intermediate points. I want to give notice here and now on behalf of all the Senators and Congressmen who represent the great interior regions of the United States affected by the long-and-short haul issue which so frequently comes before the Interstate Commerce Commission, that if another canal is to be constructed through Nicaragua we intend to see to it that the second canal shall not be used as an excuse for further violations of the fourth section of the interstate commerce act which prohibits charging more for a long haul than a short haul in the same direction over the same railroad line.

Mr. DILL. Mr. President, will the Senator indicate just how he is going to see to that?

Mr. HAYDEN. Of course, neither the Senator from Washington nor I may be Members of the Senate 70 years from now when the Nicaragua canal is built.

Mr. DILL. How can it be done? That is the question I meant to ask.

Mr. HAYDEN. It could be quickly done by the passage of the Gooding bill, which is pending before the Senate, and is upon its calendar at this moment, with a favorable report from the Committee on Commerce.

Mr. BRUCE. Mr. President, the Senator, of course, is aware of the utter futility of the efforts on the part of anybody in this body or in the other House to bring about the passage of the Gooding bill.

Mr. HAYDEN. I have not given up hope, I may say to the Senator. The fact that the Senate of the United States once passed that bill by a very large majority, the fact that the same issues are from time to time being raised before the Interstate Commerce Commission, to the great embarrassment of the intermediate regions, makes it necessary, in my judgment, that Congress shall fully and finally determine whether a railroad company shall be allowed to charge more for a long haul than for a short haul over the same line and in the same direction.

Mr. BRUCE. Mr. President, will the Senator allow me the liberty of saying that I think he must be endowed with a highly

sanguine temperament to think the Gooding bill will ever be passed by the Congress.

Mr. HAYDEN. In any event I have been an advocate for many years of a rigid long-and-short-haul section as a part of the act to regulate commerce. The practice of charging more for a short than for a long haul results in wasteful transportation, especially where the competition which is met by such a rate is between railroads, for if commodities are hauled over the long line when they could just as well move over the short line it can mean nothing else than wasteful transportation and the lowering of the revenue of any particular group in which the various railroads may be located. The railroads should not be permitted to violate the fourth section to meet water competition or any other form of competition.

If we have another transportation system which can transport property more cheaply than the railroads it ought to be used and fostered for that purpose. The only purpose a railroad can possibly have in reducing rates to meet water competition is to take business from the water line, and if it is allowed to charge more to intermediate points than to the competitive point it simply means that they are making up out of the intermediate points their losses incurred in meeting the competition to put the boats out of existence.

The fourth section of the transportation act should be amended so as to prevent the railroads from making discriminatory rates to interior points in order that they may drive the Panama Canal and river boats out of business and thus secure a monopoly of the transportation business of the United States.

The policy of the railroads in the past has been to make exceedingly low rates to water points, with the result that there is no private capital invested to-day in water transportation on our inland waterways. While making these low rates to water points and thus driving the boats out of business, the railroads recouped their losses by charging unreasonably high and discriminatory rates to interior points, thus throttling the development of the interior.

To-day the transcontinental railroads are attempting to apply this same principle to the Panama Canal traffic. They are asking to impose upon the people of the interior West a burdensome and discriminatory freight rate in order that they may make a rate so low to the Pacific coast points as to drive the Panama Canal boat service out of business.

The Panama Canal was built by the people of the United States to serve the entire country, and the steamship service through it should not be destroyed by any decision of the Interstate Commerce Commission granting relief to the railroads from the provisions of the fourth section of the transportation act.

Mr. President, I desire to read to the Senate brief extracts from the testimony given by Mr. Mark W. Potter as receiver of the Chicago, Milwaukee & St. Paul Railroad, at a hearing in New York City in July, 1926, before Commissioner Cox, of the Interstate Commerce Commission, in which he discussed this issue. Mr. Potter then said:

> I haven't any doubt but that the effect of the Panama Canal has been to develop the coast as a whole, promote the prosperity of the coast, and I think by and large the railroads have been compensated through benefits from the canal which quite take care of any debits.
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> * * * * * * *
>
> But considering it by and large, I do not believe the Panama Canal is a detriment at all.
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> * * * * * * *
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> I do not hesitate to say that if I had been the sole receiver of the St. Paul property I should have withdrawn application for fourth-section relief.
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> * * * * * * *
>
> I think that there is no necessity for fourth-section departure. I think they can get a fair rate to intermountain territory that will give them all the business, and give them a fair look into the coast business on that rate. I don't think there should be fourth-section departures except where they are necessary, and I do not believe this is one of those cases.

I have here, Mr. President, a table showing the total tonnage transported through the Panama Canal each year since its construction. I direct the particular attention of the Senate to the figures for 1920 to 1928. In 1920 the tons of cargo carried were 11,236,119, and there has been an increase every year, except in 1925, until the total in 1928 was 29,401,581 tons. That tonnage, I believe, is equivalent to about 2 per cent of the total tonnage carried by the transcontinental railroads. I ask to have that table inserted in the RECORD and also additional tables showing the intercoastal tonnage passing through the Panama Canal and the character of the commodities carried by ships from coast to coast.

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

(See Exhibits A, B, and C.)

Mr. SMITH. Mr. President, I presume the figures to which the Senator has just referred represent the total tonnage that has passed through the canal as of the dates which he has given. May I ask him does he know what per cent of that was tonnage coming through the Panama Canal destined to Atlantic ports of the United States?

Mr. HAYDEN. One of the tables shows that the Atlantic to Pacific traffic is much less than that from the Pacific coast to the Atlantic seaboard.

The other tables show the character of the tonnage, whether manufactured goods, general cargo, sulphur, tobacco, oil, and so on. I am sure that the Senator from South Carolina will find the tables to be very interesting.

Mr. SMITH. I was interested because I have seen the development of an industry due to cargoes brought to the eastern seaboard from Washington and Oregon. Those cargoes are discharged at Atlantic ports and carried far into the interior by the railroads. I am sure they would never have come to the Atlantic ports as they did if it had been necessary for them to be carried by our railroad systems.

Mr. HAYDEN. Does the Senator from South Carolina refer to lumber?

Mr. SMITH. It may be called lumber, but I have in my mind all kinds of wood, even logs. I was informed to-day that vessels bring to certain Gulf ports, for instance, logs which are then shipped to the interior, cut into lumber, and distributed over the East and Southeast. This character of cargo would not have been brought to the eastern section at all if transportation had been restricted to the railroads, no matter what freight rates, within reason, might have been charged, because a good deal of this freight, I have been informed, comes to South Atlantic ports almost in the form of ballest. The railroads subsequently derive revenue from it after the cargo is discharged at the southern ports when they carry it to the interior.

Mr. HAYDEN. A comparison of the figures that I have placed before the Senate with the total tonnage carried by the transcontinental railroads would show how insignificant is the quantity of freight passing through the Panama Canal compared to the total amount of freight carried from coast to coast by the great transcontinental railroad systems. Therefore the railroads are not justified in using the Panama Canal, and would not be justified in using a new Nicaraguan canal as a reason for asking the right to carry freight at a lower rate to Pacific coast terminals in order to meet water competition.

Although the traffic through the Panama Canal has more than doubled in the past eight years, I have before me a statement of the dividends by the various transcontinental railroad systems which shows that if the Panama Canal traffic is competing with the railroads their stockholders have never known the difference. The Union Pacific Railroad Co., for example, has paid from 1920 to 1927 upon all of its common stock a 10 per cent annual dividend, amounting to $22,229,160, and on its preferred stock a 4 per cent dividend, amounting to $3,891,740. Those payments in the identical sums have been made on the 31st of December of each year for the past eight years.

I shall include in the RECORD further tables showing the dividends paid upon the common and preferred stock of all the remainder of the transcontinental railroad lines. In no instance has there been any reduction of dividends by reason of competition with ships passing through the Panama Canal.

The PRESIDING OFFICER. Without objection, the tables will be printed in the RECORD.

(See Exhibit D.)

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

Mr. HAYDEN. I yield.

Mr. KING. I should like to ask the Senator whether all of the transcontinental railroads are earning the full amount which under the transportation act they would be warranted in retaining.

Mr. HAYDEN. They are not. I happened to look that up a few days ago with particular reference to the Southern Pacific Railroad Co. At no time has that railroad system earned the full 5¾ per cent allowed under the transportation act.

Mr. KING. Has the Santa Fe system earned it?

Mr. HAYDEN. I am not so sure with respect to the Santa Fe system. The figures which I have here merely give the dividends paid and not the total net income of the railroads in proportion to the amount of capital invested, which is the basis for earnings as provided in section 15a of the transportation act.

Mr. KING. Do the figures which the Senator is inserting in the RECORD show the freight tonnage which has been carried

every year by the transcontinental railroads since the Panama Canal has been constructed?

Mr. HAYDEN. No. It would be very interesting to compare the tonnage of freight carried by the transcontinental railroads and the tonnage of freight which has passed through the Panama Canal, particularly with respect to the various classes of commodities. I have not that information at hand.

Mr. KING. My information is, if the Senator will pardon me, that there has been an increase in the tonnage carried by the railroads during the past 10 or 15 years measured by the amount of tonnage prior to that time.

Mr. HAYDEN. I have no doubt that the Senator from Utah is correct in that statement, and, therefore, although the traffic through Panama Canal has more than doubled during the past eight years, nevertheless the effect upon the railroads has been comparatively slight. Just as Mr. Potter pointed out, the construction of the Panama Canal so stimulated business on the Pacific coast that the reaction was that the railroads were compelled to carry a greater tonnage of freight than ever before.

Mr. President, the railroads desire to make low rates to terminals which have water communication. They have to do so, they claim, in order to compete with shipping and get their share of business. In some cases they have made rates so low that they get most of the traffic, thus nullifying the expenditure of millions of the taxpayers' money in the improvement of waterways. So as to recoup for the low rates charged for long hauls, the railroads charge higher rates for hauls to interior points that have no alternative means of communication. Thus the freight rate from Chicago to San Francisco is in many cases lower than the rate from Chicago to Denver, only half the distance.

Manifestly such discrimination is unfair to inland communities. It has done much to hold back the development of the Rocky Mountain section and many parts of the South. These regions are great producers of raw materials; certain parts of them have easy access to coal, while others are near potential water powers; but industry remains stagnant because of high freight rates. The chief trade is in raw materials, which are the only excuse for the existence of any population in these sections. The manufacturing districts of the country are increasing marvelously in population and wealth. Other sections are comparatively at a standstill, largely because of freight-rate discrimination.

Meanwhile the railroads supplying these regions cry out that they are poor, and blame the Panama Canal for their condition. This seems a queer way of regarding the situation. Would they be poor if they assisted in the building of the States they traverse? If their rights of way were dotted with factories supplying them with freight and taking from them raw materials, would they be poor? If industry were attracted to them by cheap factory sites, abundant and inexpensive electric power, healthful living conditions, opportunities for employees to own their own homes and gardens, would not the earnings of the railways serving these communities improve? But such development is made impossible by high and discriminatory freight rates.

My father once called on the late Collis P. Huntington, who was then the president of the Southern Pacific Railroad Co., to urge better freight rates to aid in the development of the then Territory of Arizona. Mr. Huntington told him that so far as the Southern Pacific Railroad Co. was concerned, Arizona was merely a stretch of unproductive country which kept the world together; it was a distance that had to be traversed in order to carry the products of the Pacific coast to the East, and vice versa; but that his railroad expected to gain no business or profits from that area, and was not interested in its development.

I am glad to say that the attitude of the transcontinental railroads has changed somewhat of recent years. The gradual increase in population and wealth in the intermountain country, an advancement which has occurred in spite of serious handicaps, has at last made some of the leading officials of these great railway lines realize that there is business which can be developed there that is worth while. That is the point I want to emphasize in concluding my remarks upon this joint resolution.

The transcontinental railroad companies should not continually appear before the Interstate Commerce Commission seeking the privilege of making a low rate through to the Pacific coast, lower than they are willing to stop off freight in the intermediate regions, and allege the Panama Canal as an excuse for so doing. Anyone engaged in business in the intermountain country at the present time has no assurance that any day some transcontinental railroad company which carries his freight may not file an application before the Interstate Commerce Commission to be permitted to change a rate situation which will utterly ruin his business. This sword of Damocles perennially hangs over his head. We want to make business conditions certain. We ask for the enactment by Congress of legislation that will absolutely prohibit any railroad company from using the Panama Canal, in particular, as an excuse for granting a lower through rate than to the intermediate territory. If that is done, business will prosper along the entire lines of these railroads, and in the end they will gain more business and make more profit than would be possible if they follow the foolish and the unwise course, as we believe, of asking the privilege of carrying commodities through to the Pacific coast at cost or less than cost, and then seek to recoup themselves by overcharging those who live in the areas between.

EXHIBIT A

Commercial traffic through Panama Canal, years 1914–1928

Calendar year	Number of commercial ships	Tolls	Tons of cargo
1914 [1]	350	$1,508,737.56	1,758,625
1915 [2]	1,154	4,297,467.11	4,893,422
1916 [2]	1,217	3,671,162.68	4,774,822
1917	1,960	6,107,696.63	7,443,610
1918	2,070	6,317,455.39	7,284,159
1919	2,130	6,973,095.30	7,463,151
1920	2,814	10,295,362.21	11,236,119
1921	2,783	11,261,098.80	10,707,005
1922	2,997	12,573,407.77	13,710,556
1923	5,037	22,966,838.18	25,160,545
1924	4,893	22,809,416.34	25,892,134
1925	4,774	21,380,759.70	23,701,277
1926	5,420	23,901,540.04	27,586,051
1927	6,085	26,231,022.94	29,102,538
1928	6,334	26,375,962.41	29,401,581
Total	50,018	206,671,023.06	230,115,595

[1] Canal opened to traffic Aug. 15, 1914.
[2] Canal opened to traffic for approximately 8½ months only.

EXHIBIT B

Intercoastal tonnage passing through Panama Canal, by direction of movement, years 1920–1928

Year	Atlantic to Pacific (tons of 2,240 pounds)	Pacific to Atlantic (tons of 2,240 pounds)	Total (tons of 2,240 pounds)
1920	416,819	644,833	1,061,652
1921	893,396	1,050,722	1,944,118
1922	1,916,887	2,013,787	3,930,674
1923	2,926,094	9,968,751	12,894,845
1924	2,680,376	9,626,549	12,306,925
1925	2,821,006	7,688,926	10,509,932
1926	2,656,107	8,266,500	10,922,607
1927	2,725,481	8,182,983	10,908,464
1928	2,915,213	6,848,098	9,763,311

EXHIBIT C

Coast-to-coast movement of principal commodities via Panama Canal, calendar years 1926, 1927, and 1928

Commodity	1926, tons	1927, tons	1928, tons	Increase or decrease 1928 over 1927
ATLANTIC TO PACIFIC				
Manufactured goods [1]	1,052,510	1,300,825	1,530,538	229,713
General cargo	1,021,711	695,434	613,733	[2] 81,701
Metals	97,943	110,494	13,310	[2] 97,184
Sulphur	87,166	77,178	90,084	12,906
Paper	44,130	62,915	64,327	1,412
Oils	34,888	63,018	72,954	9,936
Canned goods	27,520	46,033	65,701	19,668
Coal	27,264	31,846	37,032	5,186
Tobacco	20,409	17,623	28,697	11,074
All other	242,566	320,115	398,837	78,722
PACIFIC TO ATLANTIC				
Oils	4,534,719	4,399,127	2,791,677	[2] 1,607,450
Coconut	42	15	112	97
Cottonseed	50	20		[2] 20
Crude	3,254,858	[3] 2,807,728	[4] 692,457	[2] 2,115,271
Lubricating	81,169	72,689	48,271	[2] 24,418
Refined	1,197,738	1,505,249	1,946,798	441,549
Olive		[5] 2		[2] 2
Vegetable	20	434	533	99
Wood		435	446	11
Other	842	[5] 12,555	[6] 103,060	90,505
Lumber	2,361,533	2,380,620	2,446,760	66,140
General cargo	445,975	236,337	111,699	124,638

[1] Iron and steel, machinery, railroad materials, textiles, tinplate, etc.
[2] Decrease.
[3] Includes 1,151,737 tons of gas and fuel oil.
[4] Includes 313,154 tons of gas and fuel oil.
[5] Includes 11,972 tons of kerosene.
[6] Includes 102,444 tons of kerosene.

Coast-to-coast movement of principal commodities via Panama Canal, calendar years 1926, 1927, and 1928—Continued

Commodity	1926, tons	1927, tons	1928, tons	Increase or decrease 1928 over 1927
PACIFIC TO ATLANTIC—con.				
Canned goods	422,361	502,836	593,966	91,130
Fish	125,034	119,292	124,990	5,698
Fruit	220,271	269,859	317,422	47,563
Meat	4,318	2,251	2,598	347
Milk	3,076	11,622	9,722	[1] 1,900
Vegetable	45,247	56,621	63,467	6,846
Other	24,415	43,191	75,767	32,576
Fruit	95,552	119,377	147,892	28,515
Metals	79,518	109,203	116,497	7,294
Antimony	685	168	486	318
Copper	65,232	92,013	101,916	9,903
Iron	278	149	480	331
Lead	8,708	4,912	2,138	[1] 2,774
Scrap	3,679	5,021	4,930	[1] 91
Tin	62	141	1,060	919
Zinc	32	411	4,753	4,342
Other	842	6,388	734	[1] 5,654
Flour	59,988	49,543	79,420	29,877
Beans	49,048	58,808	77,881	19,073
Ores	30,635	25,997	24,339	[1] 1,658
Wool	27,860	36,944	40,635	3,691
Skins and hides	22,451	22,293	26,411	4,118
Paper	16,201	25,660	47,874	22,214
Cotton	14,990	26,509	25,417	[1] 1,092
Sugar	5,683	62,355	88,208	25,853
All other	99,986	127,374	229,422	102,048

[1] Decrease.

EXHIBIT D

Dividends declared, years 1920–1927

GREAT NORTHERN RAILWAY CO.

Year ended—	Common stock		Preferred stock	
	Amount	Rate	Amount	Rate
		Per cent		*Per cent*
Dec. 31, 1920			$17,462,916	7
Dec. 31, 1921			17,462,974	7
Dec. 31, 1922			13,097,264	5¼
Dec. 31, 1923			12,473,605	5
Dec. 31, 1924			12,473,618	5
Dec. 31, 1925			12,369,145	5
Dec. 31, 1926			12,445,855	5
Dec. 31, 1927			12,447,355	5

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY CO.

Dec. 31, 1920				
Dec. 31, 1921				
Dec. 31, 1922				
Dec. 31, 1923				
Dec. 31, 1924				
Dec. 31, 1925				
Dec. 31, 1926				
Dec. 31, 1927				

NORTHERN PACIFIC RAILWAY CO.

Dec. 31, 1920	$17,360,000	7		
Dec. 31, 1921	17,360,000	7		
Dec. 31, 1922	12,400,000	5		
Dec. 31, 1923	12,400,000	5		
Dec. 31, 1924	12,400,000	5		
Dec. 31, 1925	12,400,000	5		
Dec. 31, 1926	12,400,000	5		
Dec. 31, 1927	12,400,000	5		

SOUTHERN PACIFIC CO.

Dec. 31, 1920	$18,209,281	6		
Dec. 31, 1921	20,639,196	6		
Dec. 31, 1922	20,662,854	6		
Dec. 31, 1923	20,662,854	6		
Dec. 31, 1924	20,942,854	6		
Dec. 31, 1925	22,342,854	6		
Dec. 31, 1926	22,342,854	6		
Dec. 31, 1927	22,342,854	6		

ATCHISON, TOPEKA & SANTA FE RAILWAY CO.

Dec. 31, 1920	$13,441,110	6	$6,208,685	5
Dec. 31, 1921	13,518,420	6	6,208,685	5
Dec. 31, 1922	13,605,660	6	6,208,685	5
Dec. 31, 1923	13,909,245	6	6,208,685	5
Dec. 31, 1924	14,525,594	6¼	6,208,640	5
Dec. 31, 1925	16,268,665	7	6,208,640	5
Dec. 31, 1926	18,011,736	7¾	6,208,640	5
Dec. 31, 1927	23,240,950	10	6,208,640	5

Mr. EDGE. Mr. President——

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. EDGE. I will yield to the Senator from Washington [Mr. DILL] if he desires. He advised me that he wished to address the Senate at this time. I do not want to take the floor from him.

Mr. DILL. Does the Senator care to make any remarks?

Mr. EDGE. I will propose a unanimous-consent agreement, understanding that this is what the Senator from Washington will agree to, and having discussed it with some other Senators—that when the Senate concludes its business this afternoon it adjourn until Monday at 12 o'clock, and that at 3 o'clock——

Mr. DILL. Had not the Senator better wait until the Senator from Utah [Mr. KING] comes in?

Mr. EDGE. I will present the unanimous-consent request in this form, because, while I did not ask the Senator from Utah about it at this time, some time back I asked him if he was satisfied to have a limitation of debate go into effect a day ahead, and he said he was; so I assume he will take the same position now.

I ask unanimous consent that when the Senate adjourns to-day it adjourn to meet Monday at 12 o'clock, and that beginning at 3 o'clock on Monday addresses on the joint resolution or amendments thereto shall be limited to 10 minutes.

Mr. McMASTER. Mr. President, should not a quorum be called?

Mr. EDGE. Not on a limitation of debate; only on setting a time for a vote.

The PRESIDING OFFICER (Mr. COUZENS in the chair). The present occupant of the chair desires to announce that if no one else does he will suggest the absence of a quorum, because in the past controversies have arisen because quorums have not been called for when limitations on debate have been made.

Mr. McMASTER. I think the Senator had better call for a quorum.

Mr. EDGE. I will withhold the request for the moment if the Senator from Washington is prepared to take the floor.

Mr. DILL. I am prepared to do so.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. DILL. Mr. President, in the light of the reversal to-day of the vote last night on keeping the marines in Nicaragua, I suppose it is more desirable to pass this joint resolution to-day than it was yesterday; for, now that we are to permit the marines to stay in Nicaragua, there should be something to have them down there for; and if we place a lot of engineers down there, working on a right of way, we will have an excuse to keep the marines there for many years to come.

I thought possibly there was a chance to get the marines out of Nicaragua, and that we might treat Nicaragua as one nation should treat another, but the claim was made through the press and by officials of the Government that the amendment withdrawing the marines from Nicaragua was in effect torpedoing the Navy bill, and we were told that if the amendment remained in the bill it would be knocked out in conference; that the House would never agree to it; or, if they ever did agree to it, that the President would veto the bill.

I have wondered what there is about keeping the marines in Nicaragua that is so sacred to this administration. I do not know whether there is some peculiar purpose back of it or whether it is just a habit that this Government has gotten into by reason of having kept the marines down there for so many years. The truth of the matter is that the history of our record in Nicaragua is one that in my judgment is not only inconsistent but is untenable, and in no connection have we been so unreasonable, in no connection is our record so indefensible, as it is in connection with securing the rights for a Nicaraguan canal toward which the pending joint resolution is directed.

I desire to call attention first to the way we have treated Nicaragua. I think our record in that country for the past 20 years is the most disgraceful of any record we have made in connection with any part of the world.

As I said yesterday, in 1907 President Roosevelt induced the Central American governments to enter into a treaty by which they agreed with one another that no one of them would interfere in the internal affairs of another when a revolution was going on. Within two or three years of that time this Government did interfere in a way that we had bound Central American countries not to interfere, by taking the side of one of the revolutionary parties in Nicaragua. We indorsed the side of the revolution. By the help of the United States marines a conservative government was set up in place of the liberal government, and our marines were never withdrawn from then until January 1, 1925. Not only that, but the United States

Government recognized the Estrada government in 1911, although it was a revolutionary government and the people had not yet voted to support it.

I have here a description by Walter Liggett of how we secured the treaty with Nicaragua upon which the Senator from New Jersey bases his joint resolution, known as the Bryan-Chamorro treaty. I want to read a part of this:

> The Bryan-Chamorro treaty, whereby the United States paid Nicaragua $3,000,000 for the exclusive right to construct a transisthmus canal and also for the privilege of establishing a naval base in the Gulf of Fonseca, was negotiated by Diaz in 1913.
>
> Before the Bryan-Chamorro treaty was ratified, Costa Rica, Salvador, and Honduras protested vigorously to the United States against its provisions. Salvador and Honduras both had as much claim to the Gulf of Fonseca as Nicaragua; and the northern boundary of Costa Rica borders the San Juan River, to which Nicaragua signed away exclusive canal rights. A prior treaty between Costa Rica and Nicaragua also forbade Nicaragua to make any canal rights without first consulting Costa Rica.

That leads me to remind the Senate of how Diaz came to be able to negotiate this treaty. I tried to get the Senator from New Jersey [Mr. EDGE] this afternoon to discuss that phase of the subject. He pretended not to know anything about it. He said that it was not important; that it made no difference how we got these rights; that we have them now. He reminded me of the Irish politician I heard in a play some years ago. When discussing with another politician the subject of money he said: "I have noticed in this world that if you have money, people never ask you how you got it, but 'Have you got it?'" So the philosophy of the Senator from New Jersey here to-day regarding our rights in Nicaragua, he says, is, "It makes no difference how we got them; the point is, we have them."

Mr. EDGE. Mr. President——

The PRESIDING OFFICER (Mr. BRATTON in the chair). Does the Senator from Washington yield to the Senator from New Jersey?

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

Mr. EDGE. I can not permit that statement to go unchallenged—at least, in the way in which the Senator has presented it.

Mr. DILL. Will the Senator state his position, then?

Mr. EDGE. In answer to the Senator's question, I said very frankly that I was not familiar with the transaction beyond what history records. I was not in public life at the time; and now the Senator uses rather offensive language in saying that "the Senator from New Jersey pretends not to know." I do not know; and, if that is not sufficient for the Senator, I certainly have no further explanation to make.

Beyond that, I still insist that so far as my duty is concerned as chairman of the Interoceanic Canals Committee in asking for this survey, it is not a part of that duty for me to try, in some unknown way or method, to ascertain what may have surrounded this transaction at the time it was entered into by the Secretary of State, William Jennings Bryan, and the President of the United States, Woodrow Wilson, who were in charge of our foreign affairs at that time. I would not consider it at all a part of the responsibility of the chairman of the Interoceanic Canals Committee in asking for a survey.

Mr. DILL. The Senator begs the question. The Senator is chairman of this committee, and he came here as the sponsor of this joint resolution, and he objects to my saying that he pretended not to know about this matter, and says that he is ignorant. I think it is worse to be ignorant in a case like this than it would be to pretend ignorance. It seems to me it is the Senator's business, as chairman of the committee, to know the facts about the matter.

I am not blaming the President who came into office in 1913, and the new Secretary of State who came on the scene at that time. This revolution had been fomented largely at the instigation of American capitalists down there; and it is a matter of common knowledge to-day that a clerk of the United States Steel Corporation was in reality placed in charge of the Government of Nicaragua, and that the Government that existed in Nicaragua when this treaty was made was a government of our own choosing and not of the choosing of the people of Nicaragua; and, that being the fact, we paid $3,000,000, and about 30 per cent of it went to Nicaragua, and the rest of it went to pay American claimants.

Mr. EDGE. Mr. President, it required two parties to conclude that transaction—one, the President of Nicaragua and his representative, Chamorro; the other, the President of the United States and his representative, the Secretary of State. Does the Senator mean to imply that one party to this contract was either dumb as to the transaction or was knowingly a party to it at the same time that he attempts to insinuate that the Senator from New Jersey 14 years afterwards should know something that I am quite sure the Secretary of State and the President of the United States—I will defend them—did not know when they took part in the transaction?

Mr. DILL. Mr. President, if the Senator had read a statement of the facts at all as they are recorded in history, he would know that what I have stated is true. He would know that Chamorro was a president not by the will of the people but by the influence of the American forces that were in Nicaragua.

I want to call attention to the kind of a government it was, who the officials of it were when this treaty was made, and how completely it was under the domination of this one man and his friends.

The President of Nicaragua was Diego Chamorro. The minister of the interior was Rosendo Chamorro. The president of the congress was Salvador Chamorro. The director of internal revenue was Dionisio Chamorro. The councilor of the treasury was Augustin Chamorro. The chief of the northern army was Carlos Chamorro. The chief of the Managua Fortress was Frutus Chamorro. The chief of police at Managua was Fidelfo Chamorro. The chief of police at Corinto was Leandro Chamorro. The minister at Washington was Emiliano Chamorro. The consul at San Francisco was Fernando Chamorro. The consul at New Orleans was Augustin Bolanas Chamorro.

The brothers-in-law, the cousins, and nephews of the Chamorro clan who held office in addition to those are too numerous to mention. That is the kind of a government that was set up in Nicaragua, with whom we made the treaty upon which the Senator comes here and talks about our rights in Nicaragua. I think the $3,000,000 ought to be written off, as the $25,000,000 we paid to Colombia was written off. I think we have no legal rights in Nicaragua.

I do not need to make a speech here about the lack of necessity for this resolution. The Senator from Ohio [Mr. BURTON], venerable Senator that he is, was here in the days when the Panama Canal was built and gave reasons more clear than any I could give. The Senator from Arizona [Mr. HAYDEN] has quoted here from officials who were before the Committee on Appropriations, showing an average of 19 ships a day going through the Panama Canal, with present facilities for 54, and if we put in an additional lock we will not have to have an additional canal, and the facilities, with an additional lock, would not be exhausted for 70 years.

What is the purpose and what is the reason for wanting to get a lot of engineers down into Nicaragua? If we are going to build another canal in Nicaragua that is going to be better than the Panama Canal, it must be a sea-level canal and will cost at least a billion dollars and perhaps a billion and a half.

It is estimated that to enlarge the Panama Canal will probably cost $100,000,000, and that is a legitimate and natural expansion, when it shall be needed, but the Senator from New Jersey rushed in here with his resolution last December; and I want to call attention to the history of this resolution. It is a very interesting history. The resolution was introduced on the 20th of March and referred to the Committee on Foreign Relations. April 9, 1928, it was reported by the committee with amendments. On May 28 it was ordered printed, showing the amendments agreed to. December 10, 1928, certain amendments offered by Senator MCKELLAR were placed in it. Then, on January 7, it was ordered reprinted. It has been thrashing around that committee for some reason or other, and when we come to read it we have to go through two or three sets of resolutions to find out what is actually proposed. They keep changing the resolution from time to time to meet the changing needs of those who are back of this proposal.

The truth of the matter is that the real purpose back of all this is to give an excuse for keeping the marines in Nicaragua. There is no need for it: the arguments of the Senator from New Jersey have fallen flat here in the face of the facts that are produced by those who claim to be the friends of the resolution, namely, that it will be 30 or 40 years before we even need to enlarge the Panama Canal, and 70 years before the canal's facilities will be completely utilized, when a third lock shall have been put in.

I hold in my hand an editorial appearing in the New Republic, the publication of January 23, 1929, and I want to read from it:

> Despite the return of the American electoral mission from Nicaragua and the withdrawal of some of our marines, the future of this so-called Republic remains uncertain. Is the American Government openly to assume some permanent responsibility in this country, such as Doctor Cumberland recommended in his recent report? Is it to adopt a hands-off policy and allow the Nicaraguans to work out their own destiny?

Or will it, while professing to regard Nicaragua as an independent State, find some indirect and surreptitious means for perpetuating its control? Such are the choices confronting President-elect Hoover.

Unfortunately, signs point in favor of the last-named course. We make this statement because of the renewed zeal displayed in official and other quarters in behalf of the construction by the United States of the Nicaraguan canal. Such an enterprise will mean the occupation of the heart of the Republic by the United States and will make Nicaragua an American protectorate for all time. At the time of President-elect Hoover's recent visit to Corinto, the press published enthusiastic accounts of the Nicaraguan engineering project—a project which is being advocated by the New York Herald-Tribune and by President Moncada, whose sympathies with the State Department are well known. Senator EDGE a few days ago revived his bill authorizing a survey of the route.

Proponents advocate the construction of this canal upon economic and strategic grounds. They declare that the Panama Canal will soon be utilized to capacity.

Just as the Senator from New Jersey has been claiming here, in the face of the evidence given before the Committee on Appropriations by men who know what they are talking about, who are not giving hearsay reports. The same kind of arguments are being used by the Senator from New Jersey here. These same people who are wanting to start some work down in Nicaragua argue that the Panama Canal will soon be utilized to capacity and that another canal is therefore necessary for expanding commercial needs. They argue that should the Panama Canal be taken by a future enemy our naval communications between the East and West would be cut, with disastrous consequences.

The only reason why the Panama Canal is so vulnerable is the fact that it is a lock canal. If we should build another lock canal, we would have two lock canals to defend, instead of one. The only kind of a canal that would be of any more real value, so far as military defense is concerned, would be a sea-level canal. When the question was up the other day, the Senator from New Jersey did not dare stand here and attempt to defend building a sea-level canal at this time, and he will not do so now.

What are these arguments worth? In the first place, there is no present economic need for another canal.

The evidence shows there will be no need for it for 30 years to come, and if we put another lock in the Panama Canal, it will be 70 years. Yet there is legislation here proposing to reapportion the Congress, legislation to carry out the Constitution regarding the census, and all of this legislation must wait while the Senator from New Jersey presses for a survey of the Nicaraguan canal route.

Weeks ago I offered to let the resolution go through, as far as I was concerned, if the Senator would confine it to a study of the situation in Panama. I am perfectly willing to spend whatever money is necessary to ascertain the facts as to Panama. I object, under the color of trying to get information, to finding a new reason for keeping American boys down in Nicaragua, who are being killed under the guise of being needed there.

A year ago we wanted to take them out, and they said then we had an agreement to hold an election. That election has been held. Now we keep them there because they say that the rulers of Nicaragua want to keep them there. Are we to become the policemen of the world? Is every country that may want soldiers of some kind to be at liberty to call upon this country to furnish soldiers at its need? No; and as the time approaches when there is no longer a defense, much less a reason, for keeping those marines there, they come along with a resolution to investigate and survey the Nicaraguan canal route. Then we must have our engineers there, and we must have our marines there to protect our engineers. Then those of us who would stand up here and propose that the marines come out of Nicaragua would be held up as unwilling to protect the lives of men down there trying to get a treaty for a new canal. Thus the marines are to be used in the future, as in the past, not to protect American life and property that would legitimately be there, but to enable those who have made loans in that country to collect those loans out of the revenues of the Nicaraguan Government, and to exploit the territory there.

I believe that that is the principal result that will come out of this, because the American people can not for many, many years to come be led to sanction the expenditure of the millions and hundreds of millions of dollars it will take to build a new canal in Nicaragua when the need is no greater than it is now, with an average of 19 ships a day going through the Panama Canal, with a capacity of 54 without spending an extra dollar.

Yet we are told we must rush this resolution through in these closing days of the session, that all other business must be held up, and all other business must stand aside in order that the resolution to survey the canal district may be passed.

I want to read further from this editorial:

What are these arguments worth? In the first place, there is no present economic need for another canal. The Panama authorities estimate that the existing canal will not reach its capacity until 1960.

This agrees absolutely with the testimony read here by the friends of the resolution, as against the statement of the Senator from New Jersey, who is trying to enthuse us into passing it on the theory that we may need it in 15 or 20 years.

Last April Secretary of War Davis declared that the traffic through the canal could be quadrupled by building additional locks and by opening the canal to traffic after 6 o'clock in the evening. The cost of building a third set of locks at Panama would be $100,000,000, in comparison with a cost of constructing the Nicaraguan canal of a billion dollars. From the economic standpoint the advocates of the Nicaraguan route have failed to make a case.

The strategic argument stands on no better ground. It is all very well for the military men who draw up plans of strategy and chart out war games to discuss the possibility that the Panama Canal will be captured by "the enemy" and to demand the annexation of territory in order to ward off such an eventuality. But to those who are aware of the realities of international life, such possibilities and such policies can only be fantastic. The strategic argument could be used to justify the construction of naval bases in Haiti and Santo Domingo and the annexation of all foreign territory in the Caribbean which now is a potential "menace" to our "security." It was Lord Salisbury who once said that if the military men had their way they would annex Mars in order to protect their communications! Once we succumb to the strategic complex we will be tempted to annex half the earth. As far as the Panama Canal is concerned, many strategists already feel that this canal is impregnable. Obviously the construction of a new canal would simply increase our problem of defense and give our militarists another argument for increasing the Navy. It is certainly less difficult and less costly to defend one canal than two.

I overlooked a moment ago calling attention to what was said about this treaty with the Nicaraguan Government when it was made, and I want to quote an authority that even the Senator from New Jersey, I think, would not dispute, Mr. Elihu Root. I read from the issue of Current History of November, 1928. He said:

In the first place, in entering into that treaty the United States Government, instead of practicing its teachings by indorsing and upholding constitutional procedure, encouraged Nicaragua to violate a provision of its own constitution, which prohibits the negotiation of treaties which in any way impair the territorial integrity or the national sovereignty of the country.

That is a fact; this treaty was made in violation of the Nicaraguan constitution, and was made because it was made by officials who were under the dominance of the American leaders themselves down there.

In the second place, the treaty was negotiated with a puppet government. On that point Elihu Root expressed the opinion, based on official records, that the Nicaraguan Government at that time did not represent "more than a quarter of the people of the country," and was maintained in power by virtue of the force applied by the United States.

In the third place, the United States Government entered into the treaty with the full knowledge that a provision of the Cañas-Jéréz treaty of 1858 between Costa Rica and Nicaragua, inhibited the latter country from signing any such treaty as the Bryan-Chamorro treaty. A decision to that effect had been handed down in 1888 by President Cleveland, in arbitrating a dispute concerning the Cañas-Jéréz treaty. In that decision President Cleveland said that—

"Nicaragua remains bound not to make any grants for canal purposes across her territory without first asking the opinion of Costa Rica."

Furthermore, in case construction of a canal by Nicaragua should involve injury to the natural rights of Cost Rica, as, for example, in the San Juan River, which is a part of the internatinoal boundary between the two countries, President Cleveland held that in such cases Costa Rica's consent was "necessary." The United States Government knew from the outset that Nicaragua never attempted to secure the consent of Costa Rica nor even consulted her before signing the Bryan-Chamorro treaty.

Finally, and in the fourth place, in signing the Bryan-Chamorro treaty, the United States Government ignored the diplomatic protests of Costa Rica and Salvador to the effect that Nicaragua was incompetent to sign the treaty because of the violation of their rights. Subsequently these protests were upheld in formal decisions of the court, but they were ignored by Nicaragua, who was sustained by the United States in flouting the formal decision of the court. Such action resulted in the dissolution of the court, which under the guiding influence of

Elihu Root had been established in 1908 to settle all disputes that might arise between the Central American States.

Thus we not only had no right to make the treaty, and our treaty rights are based upon the concession of a government that did not represent the people, but by insisting upon it we destroyed the very court we had helped to establish.

In his message to Congress of January 10, 1927, President Coolidge said that one of the three reasons for our recent intervention in Nicaragua was to protect the rights of the United States acquired by the Bryan-Chamorro treaty.

That reason still exists, but it is getting pretty weak, and the Senator from New Jersey now comes here with a joint resolution to bolster up the reason by having a group of American engineers establish stations down there and negotiate with the people who own those lands that will be necessary to buy in order to establish this route.

The article goes on to say:

Instead of defending it by armed force, would it not be appropriate for the United States to abrogate the treaty—charging the $3,000,000 invested in it to the same fund as the $25,000,000 paid to Colombia a few years ago—and then negotiate a new treaty by legal methods that would offend neither the majority of Nicaragua's citizens nor its neighbors? Nothing short of such action will ever fully atone for the unfortunate moral effect of the Bryan-Chamorro treaty.

I am not going to take any more time to read from this particular publication, but I am going to offer an amendment at this time providing for the striking out of sections 1 and 2 in order that the joint resolution may be made to provide simply for a study of the Panama Canal route. I think before we have a vote on the amendment I should like to have a quorum.

Mr. EDGE. Will the Senator defer asking for a quorum until I submit another unanimous-consent request for a time to vote?

Mr. DILL. There ought to be no agreement to limit debate without a quorum being present.

Mr. EDGE. As the Senator well knows, the rule does not require a quorum when the time to vote is not fixed.

Mr. DILL. I think it is a very bad interpretation of the rule, because, in effect, it is closing debate, and I have never, when I have been present, permitted any such agreement to be made without having a quorum called.

Mr. EDGE. It has been done many times. The request is usually made for an agreement with those who show sufficient interest in the measure to remain in the Chamber. I have discussed it with the Senator from Washington [Mr. DILL], and he said he was willing to agree to limit debate after 4 o'clock on Monday. The Senator from Utah [Mr. KING] said the same thing. I have discussed it with the Senator from South Dakota [Mr. MCMASTER]. Those three Senators have been particularly interested in the joint resolution.

Mr. DILL. There is this to be said about it. The Senator from Missouri [Mr. REED] announced that he was going to take up the Vare case on Monday. That is a privileged matter and it might result in no one getting to say anything more on the pending joint resolution before the limitation on debate would apply.

There is another phase of the subject I shall want to discuss for possibly an hour or perhaps not longer than half an hour. I do not want to be placed in a position where I can not present the other argument, not that it is going to affect a vote, but I want to put my views on record.

Mr. EDGE. Would the Senator be willing to permit unanimous consent putting the matter over until Tuesday so we can finally dispose of it then? The Senator knows perfectly well that next week the second deficiency bill will be before us and other matters will be pressing, and I do not feel that I have any right in fairness to the Senate, to ask for a vote later than 2 o'clock on Tuesday. I really think it should be not later than 4 or 5 o'clock on Monday.

Mr. DILL. If the Senator from Missouri does not take very much time on Monday, the Senator from New Jersey will get a vote on Monday afternoon, so far as I am concerned.

Mr. EDGE. Then the Senator is not willing to enter into any unanimous-consent agreement?

Mr. DILL. I do not think there should be a unanimous-consent agreement made with the condition now existing. The Senator knows that the matter which the Senator from Missouri is going to bring up is a privileged matter and takes precedence over everything else.

Mr. EDGE. If I fix the hour at 5 o'clock on Monday, will that suit the Senator? Surely, the Senator will not object to that?

Mr. DILL. If the Senator will make some sort of an agreement whereby there shall be an hour or two of time to discuss the joint resolution before the vote is taken, that is another question, but to agree to such a proposition as he has submitted, with the Vare matter coming up on Monday as a privileged matter, might preclude any discussion on the joint resolution at all.

Mr. EDGE. Of course, the Senator from New Jersey can not assure the Senator from Washington as to what other Senators who may obtain the floor may or may not discuss.

Mr. DILL. So far as I know there is no one else who desires to talk unless it is the Senator from South Dakota [Mr. MCMASTER].

Mr. EDGE. I think I can meet the Senator's objection by adopting the suggestion of the Senator from Arkansas [Mr. CARAWAY] just made to me sotto voce, that we enter into an agreement for a 10-minute limit, beginning at 5 o'clock, with the understanding that the Senator from Washington shall have one hour before that time for the discussion he desires to present.

Mr. DILL. Oh, that is not the way to make a unanimous-consent request. There may be other Senators who want to discuss the question. I do not think I can agree to that.

Mr. EDGE. But the other Senators will speak for themselves.

Mr. DILL. Why does not the Senator want a quorum before submitting his request for a certain time to vote? Then if nobody else objects he may be assured that I shall not object.

Mr. EDGE. I am afraid we may have difficulty in getting a quorum to-night.

Mr. DILL. I do not think an agreement ought to be entered into without a quorum being present. I have always believed so.

Mr. EDGE. Then my own desire is to continue to-night.

Mr. DILL. I am perfectly willing, but I want a quorum here when a vote is had on my amendment.

Mr. EDGE. If a quorum responds, will the Senator agree to the proposition that he himself has made and which I have remade, providing that he shall have an hour and that the limitation on debate shall begin at 5 o'clock Monday afternoon?

Mr. DILL. I will work out an agreement with the Senator if I can. I do not want an agreement in the form the Senator proposes.

Mr. EDGE. There is no use calling a quorum unless I have some understanding with the Senator.

Mr. DILL. I am perfectly willing, if there is a quorum present, to go on to-night, though I really think we ought to adjourn now.

Mr. EDGE. Very well. 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:

Bingham	Glass	Mayfield	Shortridge
Black	Glenn	Moses	Simmons
Borah	Goff	Norbeck	Smith
Bratton	Gould	Norris	Smoot
Bruce	Hale	Oddie	Steck
Burton	Harris	Overman	Steiwer
Capper	Harrison	Phipps	Thomas, Idaho
Caraway	Hastings	Pine	Trammell
Couzens	Hawes	Pittman	Tydings
Curtis	Heflin	Ransdell	Tyson
Dale	Jones	Reed, Pa.	Vandenberg
Dill	Kendrick	Robinson, Ark.	Warren
Edge	King	Robinson, Ind.	Waterman
Fess	McKellar	Sackett	Watson
Frazier	McMaster	Schall	
Gerry	McNary	Sheppard	

Mr. JONES. I desire to announce that the Senator from Illinois [Mr. DENEEN], the Senator from Wisconsin [Mr. BLAINE], and the Senator from Montana [Mr. WALSH] are detained on official business in the Committee on the Judiciary.

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

Mr. EDGE. Mr. President, I desire to submit another proposed unanimous-consent agreement.

Mr. MCKELLAR. Why not vote now?

Mr. EDGE. I would be delighted to vote right now, but I understand there are one or two additional speeches to be made. I have no desire to cut them off, and neither have I any desire to keep the Senate here any later, although I think the joint resolution could readily be passed this afternoon.

I make this proposition after consultation with the Senator from Washington [Mr. DILL] and others: That at the conclusion of the debate on the Vare election case on Monday, with the understanding that it will be concluded on that day, there shall be two hours given to general debate on the joint resolution, and that at the end of two hours a vote shall be taken thereon.

Mr. HARRISON. Mr. President, as I understood, the Senator was going to propose to limit debate to 10 minutes on the joint resolution and any amendment thereto after two hours' general debate.

Mr. EDGE. That was the first proposition. The proposal I am now making is that we shall vote at the end of two hours' debate and not have the 10-minute continuation. After a call of the roll, of course, we can make such an agreement.

Mr. ROBINSON of Arkansas. Is the Senator proposing to limit debate on any matter which may arise touching the seat of the Senator elect from Pennsylvania;

Mr. EDGE. No; quite the contrary. My request is that at the conclusion of the debate on that question immediately following it, there shall be two hours' general debate upon the pending joint resolution.

Mr. ROBINSON of Arkansas. Provided the debate closes on the Vare election case?

Mr. EDGE. Whenever the debate closes on that question.

Mr. ROBINSON of Arkansas. Suppose the debate on the Vare case does not close at all on Monday?

Mr. SHORTRIDGE. The proposition is altogether too indefinite.

Mr. EDGE. I recognize its indefiniteness, but it seems rather difficult to provide for it. My understanding of the purpose of the Senator from Missouri is that he is not going to ask for action upon the Vare resolution, but simply desires to make a statement in connection therewith.

Mr. WATSON. I should like to ask the Senator from Arkansas, if I may, whether or not there is to be debate on the Vare case? My understanding is that the Senator from Missouri merely desires to make a statement.

Mr. ROBINSON of Arkansas. It is a privileged matter.

Mr. WATSON. Certainly.

Mr. ROBINSON of Arkansas. And in the event a resolution should be presented in connection with it, it would supersede any ordinary business of the Senate.

Mr. NORRIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from New Jersey yield to the Senator from Nebraska?

Mr. EDGE. I yield.

Mr. NORRIS. I just came into the Chamber, and do not know what the pending request is. I will not, however, agree to any unanimous-consent agreement that will limit consideration of the report on the Vare case of any action that may be taken on it at this time.

Mr. EDGE. I had no intention of limiting debate on that subject.

Mr. NORRIS. The report as I have read it rather puts it up to the Senate whether the Senate shall take any action. The committee expresses its opinion. It will be in order when the report comes up for any Member of the body to offer a resolution relative thereto.

Mr. ROBINSON of Arkansas. And the resolution would be privileged.

Mr. NORRIS. And the resolution would be privileged. I think at this time, at least, I would not consent to any limitation of debate.

Mr. EDGE. I am not proposing a limitation of debate on the Vare case, but I propose that after the disposition of the Vare case two hours be given for debate on the pending joint resolution and that we shall then vote.

Mr. HARRISON. Mr. President, will not the Senator from New Jersey frame his request for a unanimous agreement so as to provide that following the discussion on the Vare report general debate upon the joint resolution shall not run longer than three hours, after which time no speeches shall be longer than 10 minutes on the joint resolution or on any amendment thereto?

Mr. EDGE. Of course, if there were any extended debate on the Vare report that would make the session run beyond the hour of 6 o'clock, at which time we have already agreed to recess in order to have an evening session. So I am afraid the Senator's suggestion would be impracticable.

Mr. HARRISON. I think we are going to have a session on Tuesday. I have never heard any suggestion that we are going to take a holiday on that day.

Mr. EDGE. Agreeing to the suggestion of the Senator from Mississippi, then, would mean that the general debate upon the joint resolution would run over until Tuesday.

Mr. HARRISON. It would mean that, if many Senators desired to speak.

Mr. EDGE. I think that would be asking a little too much of the Senate.

Mr. HARRISON. I object, Mr. President.

Mr. EDGE. I am not desirous of making a proposal that is unfair to other business.

Mr. DILL. I may say to the Senator from New Jersey that I do not think there will be more than two hours' discussion.

Mr. HEFLIN. Regular order, Mr. President.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Washington [Mr. DILL], which the clerk will read.

The LEGISLATIVE CLERK. It is proposed to strike out sections 1 and 2, on pages 4 and 5.

Mr. EDGE. I give notice that we will stay here so long as we can hold a quorum in order to try to conclude the consideration of the joint resolution to-night.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The question is on the amendment.

Mr. EDGE. Let the amendment be stated.

The LEGISLATIVE CLERK. It is proposed to strike out all of sections 1 and 2 on pages 4 and 5.

The PRESIDING OFFICER. The question is on the amendment.

The amendment was rejected.

The PRESIDENT pro tempore. The joint resolution is in the Senate and still open to amendment.

Mr. HARRISON. Mr. President, are we going to run on longer to-night?

Mr. EDGE. We are going to continue in session so long as I can hold a quorum in order to try to complete the consideration of the bill.

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

The PRESIDING OFFICER. The absence of a quorum is suggested. The clerk will call the roll.

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

Ashurst	Edge	McKellar	Shortridge
Barkley	Fess	McMaster	Simmons
Bayard	Frazier	McNary	Smith
Bingham	Gerry	Moses	Smoot
Black	Glass	Neely	Steck
Blaine	Glenn	Norbeck	Steiwer
Blease	Goff	Norris	Stephens
Borah	Gould	Nye	Swanson
Bratton	Greene	Oddie	Thomas, Idaho
Brookhart	Hale	Overman	Trammell
Broussard	Harris	Phipps	Tydings
Bruce	Harrison	Pine	Tyson
Burton	Hastings	Pittman	Vandenberg
Capper	Hawes	Ransdell	Walsh, Mass.
Caraway	Hayden	Reed, Pa.	Walsh, Mont.
Couzens	Heflin	Robinson, Ark.	Warren
Curtis	Johnson	Robinson, Ind.	Waterman
Dale	Jones	Sackett	Watson
Deneen	Kendrick	Schall	Wheeler
Dill	King	Sheppard	

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

Mr. EDGE. Mr. President, I desire to submit another request for unanimous consent. I ask unanimous consent that upon the conclusion of its business to-day the Senate adjourn until 12 o'clock on Monday; that at 2 o'clock p. m. on Monday next, when the unfinished business, being Senate Joint Resolution 117, is laid before the Senate, debate shall be limited to not more than two hours, and that after the hour of 4 o'clock p. m. on that day no Senator may speak more than once or longer than 10 minutes on the joint resolution or on any amendment thereto.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

JOINT COMMITTEE ON INTERNAL REVENUE TAXATION

Mr. McKELLAR. Mr. President, I desire to ask the senior Senator from Utah a question. The revenue act of 1926 creating the Joint Committee on Internal Revenue Taxation provides that the joint committee shall report from time to time. Has the committee reported at any time recently?

Mr. SMOOT. It has reported, but not at the present session of Congress. It reported at the last session of Congress.

Mr. McKELLAR. Is it going to submit a report at this session of Congress?

Mr. SMOOT. I do not know whether or not the report of the joint committee is ready.

Mr. McKELLAR. I have been informed that the joint committee has the report ready, but that it has not been submitted to Congress.

Mr. SMOOT. If the Senator will call my attention to the matter on Monday morning I will see the chairman of the joint committee.

Mr. McKELLAR. I will do so. I thank the Senator.

COMMITTEE ON NARCOTIC TRAFFIC

Mr. KING. Mr. President, a joint resolution creating a joint congressional committee to be known as the committee on narcotic traffic was referred to the Committee on the Judiciary. That committee considered the joint resolution, and instructed me to report it to the Senate and ask for its consideration.

The committee were unanimous in recommending the passage of the joint resolution. It deals with an important question. A great evil exists in our country growing out of the narcotic traffic, and it is important that data be obtained in order to determine what additional legislation by Congress is needed to destroy, if possible, this great evil which is affecting the health and, indeed, the morals of our country. It is believed that an investigation, comprehensive in character, made by a proper committee, will furnish sufficient information and adequate data to enable Congress further to legislate upon this matter, and to bring about, so far as possible, a suppression of this terrible evil.

I ask unanimous consent for the immediate consideration of the joint resolution.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. I hope there will be no objection to it.

Mr. ROBINSON of Arkansas. I concur in that request.

Mr. McKELLAR. Mr. President, what is the request?

Mr. KING. To consider a joint resolution creating a joint congressional committee to be known as the committee on narcotic traffic. It is unanimously reported by the Judiciary Committee.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. J. Res. 209) to create a joint congressional committee to be known as the committee on narcotic traffic, which had been reported from the Committee on the Judiciary with an amendment, on page 3, line 2, after the words "sum of," to strike out "$50,000" and insert "$25,000," so as to make the joint resolution read:

Resolved, etc., That there is hereby established a joint congressional committee to be known as the committee on narcotic traffic, and to be composed of two Senators appointed by the President of the Senate and three members elect of the House of Representatives for the Seventy-first Congress appointed by the present Speaker of the House of Representatives.

The committee is authorized and directed to conduct an investigation and make a study of existing laws, rules, regulations, control, and policing of the traffic in opium, narcotics, and habit-forming drugs; to ascertain the amount of habit-forming drugs and narcotics required for medical and legitimate purposes; the system of distribution of habit-forming drugs; importation, smuggling, and unlawful sale of habit-forming drugs; the source and method of unlawful importation of opium, its derivatives, and habit-forming drugs; and to report to the first session of the Seventy-first Congress, and not later than December 31, 1929, its findings and recommendations for the amendment and revision of existing laws necessary to prevent and curtail the unlawful sale, traffic, and use of habit-forming drugs.

For the purposes of this resolution the committee, or any subcommittee thereof, is authorized to select a chairman and to hold such hearings while Congress is in session and during any recess or after adjournment of Congress, to sit at such times and places, to employ such clerical, stenographic, and other assistance, to require the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, and to have such printing and binding done as it deems advisable.

For the purpose of carrying out the provisions of this resolution the sum of $25,000 is hereby authorized to be appropriated. All expenses of the committee shall be paid upon vouchers to be approved by the chairman of the said committee.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTION SIGNED

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the Vice President:

S. 5129. An act authorizing Thomas E. Brooks, of Camp Walton, Fla., and his associates and assigns, to construct, maintain, and operate a bridge across the mouth of Garniers Bayou, at a point where State Road No. 10, in the State of Florida, crosses the mouth of said Garniers Bayou, between Smack Point on the west and White Point on the east, in Okaloosa County, Fla.;

S. 5465. An act authorizing V. Calvin Trice, his heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across the Choptank River at a point at or near Cambridge, Md.;

S. 5630. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Ohio River at or near Carrollton, Ky.;

H. R. 4084. An act for the relief of the persons suffering loss on account of the Lawton, Okla., fire, 1917;

H. R. 5769. An act to authorize the consolidation and coordination of Government purchase, to enlarge the functions of the General Supply Committee, to authorize the erection of a public warehouse for the storage of Government supplies, and for other purposes;

H. R. 7452. An act for the erection of a tablet or marker to be placed at some suitable point between Hartwell, Ga., and Alfords Bridge, in the county of Hart, State of Georgia, on the national highway between the States of Georgia and South Carolina, to commemorate the memory of Nancy Hart;

H. R. 9168. An act for the relief of Simon A. Richardson;

H. R. 9597. An act for the relief of Fred Elias Horton;

H. R. 9659. An act for the relief of F. R. Barthold;

H. R. 10191. An act for the relief of G. J. Bell;

H. R. 10374. An act authorizing the acquisition of land and water rights for forest-tree nurseries;

H. R. 11285. An act to establish Federal prison camps;

H. R. 11385. An act for the relief of Dr. Andrew J. Baker;

H. R. 13461. An act to provide for the acquisition of land in the District of Columbia for the use of the United States;

H. R. 14153. An act to authorize an additional appropriation of $150,000 for construction of a hospital annex at Marion Branch;

H. R. 14466. An act to provide for the sale of the old post-office property at Birmingham, Ala.;

H. R. 14924. An act to authorize the Secretary of War to grant to the city of Salt Lake, Utah, a portion of the Fort Douglas Military Reservation, Utah, for street purposes;

H. R. 16568. An act to repeal that portion of the act of August 24, 1912, imposing a limit on agency salaries of the Indian Service; and

H. J. Res. 135. Joint resolution for the relief of special disbursing agents of the Alaska Railroad.

THE PROBLEM AND POLICY OF PROHIBITION

Mr. JONES. Mr. President, I have here an address by Mr. James M. Doran, Commissioner of Prohibition, delivered before the department of economics, sociology, and government at Yale University on February 20, 1929. It is a very careful and conservative address, dealing with the situation respecting the enforcement of the prohibition law. I ask that it may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD.

THE PROBLEM AND POLICY OF PROHIBITION

ADDRESS BY JAMES M. DORAN, COMMISSIONER OF PROHIBITION, BEFORE THE DEPARTMENT OF ECONOMICS, SOCIOLOGY, AND GOVERNMENT, YALE UNIVERSITY, FEBRUARY 20, 1929

Now that the shouting and tumult attending our quadrennial national election has died, the political captains and kings have departed from the public platform, and the strange bedfellows of politics have slowly repaired to their usual living quarters and bedchambers, it is well to give some earnest thought to prohibition observance and enforcement, having in mind that we are dealing with a paramount governmental question affecting all of us.

The duty of observance of the law needs no comment; it is upon us all. Education and enlightenment are essential to the building up of a spirit of law observance. It is gratifying to see that many organizations primarily interested in prohibition law enforcement are now turning a portion of their efforts toward educational work.

The question of details of enforcement by lawfully constituted authority, Federal, State, and municipal, is paramount, and its wise determination and solution is essential to the future of our Government. Believing, as I do, that the eighteenth amendment and the national prohibition act is not only good law, but offers the best method for the suppression of alcoholism, which is a curse to the modern industrial state, and earnestly wishing to bring about further improvement in enforcement conditions, I urge a calm, deliberate, and painstaking consideration of this problem by our thoughtful people.

Why is prohibition not better enforced? Why is it that liquor can be obtained in every city and town throughout the land? Why does not the Government do something about it? How is it that speakeasies remain open and do business after many complaints have been made against them? Why is prohibition enforcement in the Treasury Department, where they handle money and taxes, instead of the Department of Justice, where they prosecute criminals? Why does the Government poison alcohol to enforce prohibition? These and questions of like character come to my desk continually and they have been broadcast throughout the land. They have been discussed by hundreds of thousands of people, and about as many replies and answers have been made. The people want their Government to be effective in controlling the lawless minority. I am confident that if they know more

of the working details of their Government—Federal and local—that public opinion expressed through political action will keep our affairs straight. I am going to take up some of these questions and do a little plain talking in an endeavor to show a few of the salient facts and attempt to make an analysis of the situation with respect to prohibition enforcement, that will be of some constructive benefit.

Every method of controlling so-called beverage liquor has been tried out in the United States. We have had our State dispensary, our local option, our jug laws, and our local bone dry laws. The moonshiner, the bootlegger, the speak-easy proprietor, and the tax evader are not new with us, nor have they been created by the eighteenth amendment, as some people imagine. They have always been with us to a greater or less degree since the control of intoxicating liquors was made the subject of excise or repressive legislation. With commerce moving so freely between the States under our modern transportation methods, it must be obvious that Federal authority needs to be brought to bear on the situation in order to supplement the State and local actions. This situation was apparent to Congress and the State legislatures, and the eighteenth amendment was adopted by 46 of the 48 States, the largest number of States ever ratifying any amendment to our Constitution.

There is nothing wrong with the policy of prohibition. The unfavorable symptoms are discussed by people who assume to be analysts of the situation, and these same people show a glaring ignorance of the make-up of our Government, and as a rule, are looking only at one or two small segments. Many people seem to think that the entire national policy of prohibition is centered in and relates to the suppression of the speak-easy and the local bootlegger by the Federal Government. Starting from that point, they immediately form a conclusion with respect to the entire subject and then unhesitatingly proclaim what the matter is and what ought to be done. Prohibition as a national policy is not, in my judgment, in nearly as much danger from bad people as it is from good people who are uninformed.

I. FEDERAL ENFORCEMENT

(A) THE DUTY OF THE FEDERAL GOVERNMENT

The Federal Government has certain broad and appropriate functions to perform, and I assert that it is performing them reasonably well. In the first place, it is the duty of the Federal Government to prevent smuggling of liquor. What has been done? The Coast Guard has been augmented by many vessels; rum row has been broken and scattered; treaty conventions have been entered into with many foreign nations in order better to deal with international illicit liquor traffic, and the total movement of illicit liquor internationally has been reduced to one-fourth of the quantity of three years ago. To be more specific, two years ago the total quantity of liquor moving in international traffic was 14,000,000 gallons; last year it was 5,000,000 gallons; it will be less the next year. This information is reasonably accurate, and we know whereof we speak. A substantial part of this liquor is seized, and, therefore, the amount that really goes into consumption is less in volume than the identified international movement.

The internal Federal enforcement should be primarily investigative rather than that of policing. It should aim to break up the large interstate and interdistrict conspiracies and center its efforts on the commercial operations dealing with manufacture, transportation, and distribution of commercial quantities of liquor. It should investigate collusive conditions where local officials are in conspiracy with these rings. This it is doing.

(B) WHY IT IS IN THE TREASURY DEPARTMENT

The underlying reason that prompted Congress to place the administration of the national prohibition act in the Treasury Department and create a Bureau of Prohibition to administer the national prohibition act and Revised Statutes relating to intoxicating liquor is plain enough when it is seen that the Coast Guard, the Bureau of Customs, and the Bureau of Internal Revenue, all having certain duties that relate to the suppression of illegal liquor traffic, are in the same department. As a matter of good business organization, it is essential that these activities, which are largely administrative, be coordinated as closely as possible. The Coast Guard operates on the high seas to prevent the introduction of illicit liquor into the United States. The Bureau of Customs protects the land and water borders and all ports of entry. The Bureau of Internal Revenue collects and covers into the Treasury all taxes levied on alcohol spirits and wines for other than beverage purposes. The national prohibition act is tied in, so to speak, with the Revised Statutes controlling distilled spirits and other liquors, and the tax statutes are a very effective weapon for source control. The national prohibition act would be very much weakened if it did not have the support of the Revised Statutes imposing taxes and penalties with respect to the manufacture and sale of liquor.

The Bureau of Prohibition is closely related in all its activities to these other bureaus and services in the Treasury Department. It conducts the investigative work with respect to domestic illicit liquor operations and must remain in the closest touch with the Coast Guard and Customs Services.

There has been considerable discussion about the feasibility and desirability of transferring the Prohibition Bureau to the Department of Justice. It is difficult to see how the prohibition machine could be divorced from the coordinate services already in the Treasury Department and still retain intelligent organization and centralized direction to control the illicit liquor traffic. This administrative feature alone constitutes a major question in considering Federal law enforcement. It is most gratifying to know that the President elect will cause an exhaustive inquiry to be made into these problems with a view to bringing about the most effective use of all the Federal agencies concerned.

The Bureau of Prohibition administers the permissive system created by the national prohibition act. It is essentially a scientific and technical problem. It covers the manufacture, distribution, and use of alcohol and intoxicating liquors for all scientific, medicinal, and industrial purposes. The Bureau of Prohibition likewise maintains the storekeepers and supervises the operations of the industrial alcohol plants, bonded wineries, and whisky concentration warehouses, and provides for the making of tax returns on which the Bureau of Internal Revenue collects the taxes. The taxes from nonbeverage liquors last year amounted to approximately $15,000,000, and are essential to source control of the material taxed. Few people, except those intimately concerned, have any idea of the essential importance of the business administration of the permissive system. It is not a criminal administration in any sense of the word.

If the only thing to do with respect to administering the prohibition act was the apprehension and prosecution in the United States courts of illicit liquor dealers, the problem would be comparatively simple. Unfortunately, that is only one of the many phases of the problem. The maintenance of reasonable permissive administration along cooperative lines is essential to the continued progress of science and industry in the United States. A separation of the permissive and enforcement functions might conceivably create newer and greater problems. The problem is difficult even in the same office. Only a few hundred of the 160,000 permits issued annually ever become the subject of civil or criminal litigation. In the last analysis, American science and industry can not function through the Federal grand jury, or do its daily business pursuant to court decree. We have learned one thing in this country in the last 25 years in relating government to business, and that is that only through cooperative understanding and wise direction and control can business itself function in a healthy manner and within the law.

(C) CONTROL OF ALCOHOL AND MEDICINAL SPIRITS

The Federal Government administers exclusively the so-called permissive system, namely, the supervision of the manufacture, storage, distribution, and use of all industrial alcohol and liquors for nonbeverage purposes. This is unquestionably a Federal function and is in accord with the necessary principle of securing uniform practice in commercial matters throughout the United States. All permits are issued subject to the limitations of the various State laws, and if they impose restriction greater than that imposed by the national prohibition act, the State restriction is respected accordingly. For the first few years of prohibition the administration of the permissive system was in the formative stage, and leaks from this system constituted the major problem of enforcement, both Federal and local. At the present time the permissive system is being administered in such a manner as to have reduced leakages and diversions to a minimum and has reached the point where diverted liquors are only a minor factor in law enforcement. In large sections of the country this factor is negligible.

The Bureau of Prohibition has revised the permissive regulations from time to time in order to take advantage of experience that it has acquired and has at the present time, in complete cooperation and harmony with the industrial and nonbeverage consumers of the United States, put in effect a reasonably rigid control that meets all commercial requirements and is effective, in so far as large-scale criminal operations are concerned, in preventing any breaks in the protective dikes. The Bureau of Prohibition has designated an industrial advisory council of 10 scientific and industrial leaders, who have cooperated with the bureau in working out permissive problems. This industrial advisory council has rendered invaluable aid in bringing about harmonious understanding between the bureau and the industrial users of alcohol and other nonbeverage liquors.

The Government does not poison alcohol to enforce prohibition. All countries who levy excise taxes on alcohol in a pure state have laws relieving it from tax when denatured to make it unfit for beverage or excisable use but suitable for use in sciences, art, and industries.

Industrial alcohol has assumed an importance in the scientific and industrial progress of the United States that was hardly conceived of when Congress passed the first tax-free denatured alcohol act, June 7, 1906. In the first year about 1,000,000 gallons of industrial alcohol were used in the arts and industries. Last year over 90,000,000 gallons were manufactured and distributed to thousands of individual manufactures engaged in thousands of different manufacturing activities. Without a large supply of industrial alcohol at a moderate cost, a great many of our essential industries would hardly exist, let alone prosper. Since the war the United States has had a wonderful development along chemical manufacturing lines, and to-day our industries con-

sume more industrial alcohol than do the industries of any other country.

Industrial alcohol is a necessary solvent in the preparation of hundreds of drugs and medicinal preparations. It is the solvent used in the preparation of flavoring extracts, both household and manufacturing extracts. It is employed as a solvent as well as a component part in the manufacture of many synthetic chemical compounds used medicinally and in the arts and industries. It is employed in the manufacture and purification of many of the so-called "coal tar" medicinal compounds. It is a necessary solvent in the manufacture of dyes. It is a necessary material for the manufacture of ethyl ether, both technical and anæsthetic grade. It is a necessary solvent for all manners and kinds of varnishes, shellacs, paints, lacquers, and miscellaneous protective coverings. Industrial alcohol, as such, and ethyl acetate, which is manufactured from alcohol, are widely used in the manufacture of lacquers which employ nitrated cotton as a base. The entire automobile industry employs millions of gallons of these cotton lacquers annually. It is used as a cleaning fluid, as a sterilizing agent in hospitals, and is employed widely as an antifreezing agent in automobile radiators. One of the principal grades of artificial silk requires large quantities of alcohol and ether made from alcohol.

These few above-mentioned necessary uses of alcohol merely illustrate its wide employment in all of our industrial operations. Its manufacture is regarded by the War Department as a key industry to our national defense.

The Government, in cooperation with scientists and technologists of the industries concerned, after a great amount of research work has selected the denaturants employed for the purpose of rendering industrial alcohol unfit for beverage purposes and still provide for its industrial use under reasonable commercial conditions. The denaturants are selected on account of certain necessary technical and manufacturing considerations. Many of the denaturants add to the utility of the industrial alcohol. As science advances, the employment of specific denaturants must be given continuous study, and at the present time the Industrial Alcohol Institute maintains a research fellowship in the Mellon Institute at Pittsburgh for this particular study. The term "poison alcohol," as applied to industrial alcohol, is not only unwarranted but there can be no good reason based on fact for the application of such a term. The manipulating of denatured alcohol and the production of a partially cleaned alcohol for illicit beverage purposes will not produce any so-called "poison liquor." Dr. Reid Hunt, of the Harvard Medical School, who was formerly connected with the United States Public Health Service, has found that symptoms of wood-alcohol or methanol poisoning are not apparent until its concentration in a mixture with ordinary ethyl or grain alcohol has reached about 35 per cent. The maximum content of wood alcohol in any formula authorized for industrial purposes is 10 per cent. Before a person could ingest a fatal dose or a fatal quantity of wood alcohol from a 10 per cent mixture, he would have had to take into his system several times the fatal quantity of ordinary ethyl or grain alcohol. A number of deaths recently occurred in New York City from the drinking of wood alcohol. There was not the slightest evidence adduced at any point, so far as I am aware, that these deaths were caused by industrial alcohol, either in the form in which it was denatured under Government supervision or after it had been manipulated by criminals. The United States grand jury in the southern district of New York inquired into this matter and made a presentment to the court, which shows conclusively that these deaths, so far as the facts are known, were due to straight wood-alcohol or methanol poisoning, and were not due to ordinary illicit liquor or denatured alcohol.

The sale and distribution of wood alcohol or methanol does not come within the purview of the national prohibition act or any other Federal statute of which I am aware. It is a matter coming wholly within the jurisdiction of the State under their poison or pharmacy laws. Any move to involve the industrial alcohol system of the United States by attempting to associate it with deaths from the drinking of wood alcohol is not only unwarranted and has no basis in fact but would be destructive to the progress of industry in this country.

Starting last year, after conference with the Department of Justice, the Bureau of Prohibition put in effect a quantitative control of the primary production of industrial alcohol to provide only for production sufficient to meet known legitimate needs with reasonable commercial tolerance to obviate price manipulating. Heretofore a permit for industrial alcohol allowed the manufacturer of that commodity to make as much as he pleased, and the Federal Government controlled only the distribution and consumption by the nonbeverage user. As a result, more alcohol was continually being produced than was needed for legitimate industry, with a consequent possible diversion, through thefts and other lawless acts, of the surplus not needed by lawful commerce. It was inevitable that this condition should prevail. This control policy on primary production has been successful even in its first year, and we do not have to deal, at the present time, with large surpluses of alcohol that would inevitably find their way into illicit trade. These conditions are not now in existence.

The price of alcohol in the United States at present is governed entirely by the cost of the raw material, namely, West Indian blackstrap molasses. It must necessarily fluctuate with the fluctuation of the price of raw material, inasmuch as over 90 per cent of all industrial alcohol is manufactured from molasses. The industrial advisory council of the bureau, which is in its make-up largely composed of consumers of industrial alcohol, is prepared to advise with the bureau at any time that may be necessary, in order to prevent the bureau's control policy reacting unfavorably from the consumer's viewpoint on the price of industrial alcohol. The manufacturers of industrial alcohol have cooperated in a straightforward fashion with the Bureau of Prohibition in bringing about this desirable result. The various consuming industries are organized nationally, and the Bureau of Prohibition has cooperated closely with all of them in working out their permissive problems in a manner that will assure to all legitimate people a full supply of necessary alcohol under fair administrative conditions, and that will permit of all reasonable commercial operations and still keep the trade free from the criminal element who ostensibly engage in legitimate business to cover up their illegal liquor business.

The analyses of seized liquors throughout the United States, which last year numbered 123,000 samples, show a cross section of illicit liquor in the country. In the Chicago and Great Lakes territory less than 2 per cent of these samples show legal origin; that is, they indicate diversion from permitted alcohol or other liquors. Throughout the South the percentage is negligible, and even in the Northeastern section it is much less than 10 per cent. The country-wide average is less than 5 per cent. Therefore, when I say that the permissive system does not furnish the major problem in enforcement, I am of the opinion that these figures substantiate the statement.

I want to make mention of the various groups that are cooperating with the Bureau of Prohibition in bringing about this very desirable condition: The Industrial Alcohol Institute, the American Drug Manufacturers Association, the American Pharmaceutical Manufacturers Association, the National Wholesale Druggists Association, the National Association of Retail Druggists, State retail druggists' associations, the Proprietary Association, the Paint, Oil, and Varnish Association, the American Manufacturers of Toilet Articles, the National Beauty and Barbers Supply Dealers Association, the American Medical Association, the American Chemical Society, and the Manufacturing Chemists Association. As will be readily seen, these and numerous local groups comprise the backbone of the professional and manufacturing interests of the United States that are concerned with the legitimate manufacture, distribution, and use of alcohol and medicinal liquors.

(d) Arrests, injunctions, etc.: The Bureau of Prohibition has about 2,000 field agents, including a force of special agents, which is approximately one-half of the number of persons employed. Last year this force made 75,000 arrests, seized 7,000 automobiles and trucks used in the transportation of liquors, secured evidence that resulted in the issuance of 4,268 permanent injunctions. By continuous pressure on large rings it has succeeded in lessening materially the size of the illegal traffic unit. In other words, the size of wildcat breweries and distilleries grows steadily smaller. We are taking the profit out of these large illegal operations and are steadily and inexorably breaking them and driving them out of business.

(e) The need for sympathetic prosecutors: The Department of Justice has recently received some additional funds, which were transferred by Congress from the appropriation for the Bureau of Prohibition by agreement of both departments, in order to employ additional special assistants to the Attorney General to endeavor to speed up and make more effective the administration of the law in prohibition cases in jurisdictions where that need was obvious. The Department of Justice and Bureau of Prohibition are not only in harmonious cooperation but are trying to facilitate the handling of prohibition cases in the Federal courts. Cooperation between the investigative and prosecuting branches of the Federal services is essential. When it is real the public sees the result, and that result is good. When it is lacking, it too frequently happens that the prohibition executives in the immediate locality are blamed for the state of affairs, and they justly resent that criticism when it is not well placed. During the past year the civil service has turned its microscope on the present personnel of the Bureau of Prohibition. Good will ultimately come from civil service with respect to prohibition enforcement when it is intelligently applied. I see no reason whatever why an intelligent application of the same civil-service principle and practice should not be had with respect to the staffs of the United States attorneys' offices throughout the country and scrutinize these employees with respect to character, performance, and capabilities. This would insure a corps of efficient prosecutors. The excellent work and hearty cooperation that exists between the great majority of all the United States attorneys and our field officers is noteworthy. Unfortunately, some United States attorneys and their assistants have been discharged in years past the same as prohibition executives, and underlying most of these changes in the past has been the apparent lack of this whole-hearted spirit of cooperation and sympathy with the purposes the law seeks to attain.

(f) Overburdened Federal court machinery: In some jurisdictions violators are arrested five or six times, and a trial has not yet been had on the first charge. In one jurisdiction evidence of violations has been secured against certain premises up to the eighth or ninth time,

and no injunction has yet been issued to close the place. In some jurisdictions, in so far as the Federal courts are concerned, hundreds of conspiracy cases involving 5 to 30 defendants have been pending from one to three years without trial. Prompt trial is the essence of effective administration of the criminal law. Inability to try offenders, particularly offenders against the liquor laws, promptly paralyzes the law. These conditions are obviously due to some real cause, which I will discuss later. Indifferent juries, overcrowded court dockets, poorly made cases, and indifferent presentation to the courts by the Government attorneys are some of the apparent causes. Overburdening of the Federal court system with business which should be handled elsewhere is the more proximate and underlying cause.

Our cases are now so numerous that the Federal court system is unable, in large centers, to cope successfully with the business. Our problem is one of continuous selection rather than volume.

It is of great importance that the various United States attorney's offices in the metropolitan centers be augmented to handle the large volume of business placed in their hands by the prohibition machine. By the same token, there should be a commensurate increase in the United States courts, so that those two units may be able to handle the burden now imposed upon them. To accomplish successful Federal enforcement, it is of paramount importance that there be perfect coordinate action between the Treasury Department, the Department of Justice and the Federal courts. The production of the prohibition machine should be expeditiously handled by United States attorneys, who should prosecute the cases before Federal courts without delay. To give you an example of the unsatisfactory condition to which I refer, on November 1, 1928, there were pending before the Federal courts 22,602 cases.

II. NONENFORCEMENT BY LOCAL GOVERNMENTS

(a) The duty of the local government: It seems to me that the essential distinction as to the function of the Federal and local Government is entirely lost sight of in these public discussions relating to enforcement conditions. Assertions with respect to enforcement or nonenforcement of prohibition range all the way from ordinary muddy thinking to the condition of Grover Cleveland referred to as "clotted ignorance." I assert that the Federal Government, by and large, has substantially fulfilled its obligation under the concurrent clause of the eighteenth amendment in the administration of the national prohibition act and supplement statutes; that in its proper sphere of action it has brought about noteworthy accomplishments, and further, that unsatisfactory conditions still obtaining in some localities are due almost without exception to the abject failure of local authority to assume its proper obligation and to enforce the criminal law. I am impressed with the fact that public discussion devolves almost entirely on the effectiveness or ineffectiveness of the enforcement of law by the Federal Government, and the facts upon which these discussions are based relate almost entirely to local retail sales situations that are distinctly and unquestionably the province of the State or local authority to handle.

The movement on the part of some local authorities to evade and sidestep their responsibilities took form as soon as the national prohibition act became law. Various considerations entered into this equation. In some rural counties there was a consideration of saving public funds by not incurring expenses incidental to the arrest and trial of liquor offenders. In other cases it was a convenient thing for weak-hearted officials, and even "good citizens," to say that "the great Federal Government has assumed this full responsibility and we no longer need to worry." In some cities, corrupt political machines, through the police department, made an unholy alliance with the underworld, and contributed in no small degree to the building up of illicit liquor rings. I have received thousands of pieces of mail from citizens in communities up to 3,000 miles away from Washington, who want some special men, absolutely unknown to any local official, to come into the county or the city and clean up two or three retail joints which are flourishing under the eyes of the local police authority. Usually the writers of these communications do not even wish their names to be known in any manner. While this shows to a certain extent a commendable spirit in desiring to have the prohibition law enforced, it is indicative of a local weakness and lack of initiative on the part of the good people in the community to move directly in their own place to require their own elected or appointed officials to perform their duty.

Now, what is the binding force of the eighteenth amendment to the Constitution on all of us? Let me quote some very plain words on this point: "That part of the prohibition amendment to the Federal Constitution which embodies the prohibition (of intoxicating liquors for beverage purposes) is operative throughout the United States, binds all legislative bodies, courts, public officers, and individuals within these limits." This is not the statement of an overenthusiastic public official or a zealot. It happens to be the expression of the Supreme Court of the United States in the now famous Rhode Island and New Jersey cases, in the opinion handed down June 7, 1920. To translate this final word as to the binding and effective force of the eighteenth amendment on all of us, and at the same time make it understandable and workable I would, for practical purposes, condense it into two words, namely, cooperation and coordination. It has obviously not become a complete reality as yet. Let me point out some of the instances where lack of cooperation gives rise to bad results. It may serve to throw some light on conditions in certain parts of the country where people can justly term the situation unsatisfactory.

(b) Corrupt local officials: There is much talk about corruption in the Federal service. Let me say that at no time has the Federal Government failed to take drastic measures to maintain a clean service, and, at the present time, the Federal Bureau of Prohibition, of which I have personal knowledge through its field agents, is as clean as any body of men of like number in any service throughout the land. Recent disclosures of conditions in police departments in some of our large cities should be enlightening to the general public, as to where some of the weaknesses in enforcement lie.

I would say that in some communities we not only fail to receive cooperation from the local officials but in many instances have secured their hearty opposition. One of the prohibition administrators, whose headquarters is in a large eastern city, told me that he was of the opinion that during the past year more speak-easies were raided by the local police for failure to pay graft than for the fact that they were obviously violating the State law as well as the Federal law. Let me call attention to the great public service that is now being rendered by Judge Monaghan in the city of Philadelphia in disclosing corruption in the police force with respect to its handling of the local liquor situation in that city. Judge Monaghan is performing an outstanding public service, and there are plain signs that similar movements will come in other large cities. This fearless State's attorney, formerly on the bench, has exposed conditions that have shaken the police department of that city to the bottom. Captains and police officials, who have accumulated large bank accounts running up into the hundreds of thousands of dollars on salaries of $3,000 or $4,000 a year, have gone to jail.

Judge Swanson, the new state's attorney of Cook County, is out to break organized crime and extortion in Chicago, and my prediction is that he will do it with the help of the good citizens.

The smug merchant, who drinks his highball in complacency in his club, is beginning to see the connection between liquor lawlessness that finances criminals and extortion rackets on business. How many other cities, large and small, need a cleaning, can be left to conjecture of the respective residents.

(c) Lack of local civic responsibility: People who urge much greater quantitative efforts on the part of the Federal Government, are seeking merely to create Uncle Sam as the police officer of every large city and the constable of every small town. We must keep clearly in mind the primary functions of the general Government as compared with the State and local governments. The necessity of maintaining local responsibility and performance in its proper sphere has been pointed out by every President of the United States for the last 30 years. States' rights can not be separated from States' responsibilities under the Constitution.

III. ENFORCEMENT THROUGH COOPERATION

Having indicated some things that have been done and some of the weaknesses that seem apparent in our present situation, I should like to point out that the obvious path to a better condition of enforcement lies along the line of cooperation and coordination of all agencies of Government—Federal, State, and municipal—and in addition thereto, direct conference and cooperation with the professional, scientific, and business interests directly affected by the administration of the law. In addition, it is quite apparent that observance could be promoted by the numerous unofficial agencies who should give their prime attention to the relation of the citizen to his own Government. All of these projects are necessary, and the latter especially, as the ultimate success of our prohibition policy must, in the last analysis, be based on a spirit throughout the country that makes for the observance of the law, and which creates a wholesome respect, regard, and friendliness for the law.

Some minor palliatives with respect to the existing law might be of some benefit; for example, the penalties under the national prohibition act might be increased. It is possible that the making of a liquor purchase a specific crime would aid in reducing the demand. However, as helpful as these minor changes might be, they would not materially improve the present situation, where the crying need is not more law, but better understanding of the present law and the functions of the Federal and State Governments with respect thereto, and a better coordinating of all their activities.

Complete responsibility in specific functions, a spirit of cooperation, and a coordination of the various functions, together with hard, daily work on the part of all officers and executives, will accomplish much. In my judgment, there is no quack remedy which deals with superficial symptoms that will change the situation overnight. People who are spending their time and energy on such a quest would do well to inform themselves first on the problem, as information is the first requisite to intelligent action, and no man's opinion on a specific subject is worth any more than the amount of information he may possess on the same subject.

Intelligent cooperation, and not further concentration of power in a Federal police force, is the pathway that will lead us to a more satisfactory enforcement of the eighteenth amendment.

EXECUTIVE MESSAGE REFERRED

The PRESIDING OFFICER (Mr. BRATTON in the chair). Under an order of the Senate heretofore adopted, the Chair refers to the appropriate committee the nomination of Roy Dee Keehn to be major general, reserve.

ADJOURNMENT

Mr. CURTIS. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 30 minutes p. m.) the Senate adjourned until Monday, February 25, 1929, at 12 o'clock meridian.

NOMINATION

Executive nomination received by the Senate February 23 (legislative day of February 22), 1929

APPOINTMENT IN THE OFFICERS' RESERVE CORPS OF THE ARMY

GENERAL OFFICER

Maj. Gen. Roy Dee Keehn, Illinois National Guard, to be major general, reserve, from February 21, 1929.

HOUSE OF REPRESENTATIVES

SATURDAY, *February 23, 1929*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

God of our fathers, just as we realize that Thou art an earth-walking and an earth-loving Father, we have that satisfaction which comes from the very best elements of our immortal souls; we have that sweetness that comes from a love-bearing life. Oh, the largeness of it; its fullness transcends our comprehension. Enlarge the sense of our wonderful privilege, that we may break through all barriers of infirmity, and let it give stimulus, inspiration, and aspiration to all that is great and good in the being of man. Direct us in our high mission, so noble a calling, that all our labors may be radiant in the sight of all men. Bless our homes and let heaven rest all about them. In the holy name of Jesus, our Saviour. Amen.

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Craven, its principal clerk, announced that the Senate had passed without amendment bills of the House of the following titles:

H. R. 10304. An act authorizing the Secretary of War to erect headstones over the graves of soldiers who served in the Confederate Army and to direct him to preserve in the records of the War Department the names and places of burial of all soldiers for whom such headstones shall have been erected, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1781) entitled "An act to establish load lines for American vessels, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JONES, Mr. MCNARY, and Mr. RANSDELL to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to a bill of the following title:

S. 3162. An act to authorize the improvement of the Oregon Caves in the Siskiyou National Forest, Oreg.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate Nos. 41, 52, 55, 56, 57, 58, 59, and 60 to the bill (H. R. 15712) entitled "An act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1929, and for other purposes."

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 bills and joint resolutions of the House of the following titles:

On February 14, 1929:

H. R. 56. An act to authorize the Postmaster General to issue receipts to senders for ordinary mail of any character, and to fix the fees chargeable therefor;

H. R. 58. An act to authorize the assignment of railway postal clerks and substitute railway postal clerks to temporary employment as substitute sea-post clerks;

H. R. 6865. An act to prescribe more definitely the rates of compensation payable to steamships of United States registry for transportation of foreign mails;

H. R. 10760. An act to authorize the settlement of the indebtedness of the Hellenic Republic to the United States of America and of the differences arising out of the tripartite loan agreement of February 10, 1918;

H. R. 12415. An act to grant freedom of postage in the United States domestic service to the correspondence of the members of the diplomatic corps and consuls of the countries of the Pan American Postal Union stationed in the United States; and

H. R. 12898. An act to extend the collect-on-delivery service and limits of indemnity to sealed domestic mail on which the first class rate of postage is paid.

On February 15, 1929:

H. J. Res. 356. Joint resolution to authorize the exchange of certain public lands in the State of Utah, and for other purposes;

H. R. 5713. An act to permit certain warrant officers to count all active service rendered under temporary appointments as warrant or commissioned officers in the regular Navy, or as warrant or commissioned officers in the United States Naval Reserve Force, for the purpose of promotion to chief warrant rank;

H. R. 10015. An act authorizing the promotion on the retired list of the Navy of Herschel Paul Cook, lieutenant, junior grade;

H. R. 12607. An act authorizing the Secretary of the Navy, in his discretion, to deliver to the custody of Naval Post 110 of the American Legion the bell of the battleship *Connecticut;*

H. R. 14458. An act authorizing the Rio Grande del Norte investment Co., its successors and assigns, to construct, maintain, and operate a bridge across the Rio Grande at or near San Benito, Tex.;

H. R. 14479. An act to extend the times for commencing and completing the construction of a bridge across the Ohio River at or near Maysville, Ky., and Aberdeen, Ohio;

H. R. 15005. An act authorizing the Donna Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Rio Grande at or near Donna, Tex.;

H. R. 15006. An act authorizing the Los Indios Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Rio Grande at or near Los Indios, Tex.;

H. R. 15069. An act authorizing the Rio Grande City-Camargo Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Rio Grande at or near Rio Grande City, Tex.;

H. R. 15523. An act authorizing representatives of the several States to make certain inspections and to investigate State sanitary and health regulations and school attendance on Indian reservations, Indian tribal lands, and Indian allotments;

H. R. 15968. An act to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near St. Paul and Minneapolis, Minn.; and

H. R. 16527. An act to authorize the Secretary of the Interior to purchase land for the Alabama and Coushatta Indians of Texas, subject to certain mineral and timber interests.

On February 16, 1929:

H. J. Res. 153. Joint resolution for the contribution of the United States in the plans of the organization of the International Society for the Exploration of the Arctic Regions by Means of the Airship;

H. J. Res. 304. Joint resolution providing for the observance and commemoration of the one hundred and fiftieth anniversary of the death of Brig. Gen. Casimir Pulaski, and establishing a commission to be known as the United States Pulaski Sesquicentennial Commission;

H. J. Res. 398. Joint resolution to extend the period of time in which the Secretary of the Interior shall withhold his approval of the adjustment of Northern Pacific land grants, and for other purposes;

H. R. 1939. An act for the relief of James M. Thomas;

H. R. 5780. An act to provide for the further carrying out of the award of the National War Labor Board of July 31, 1918, in favor of certain employees of the Bethlehem Steel Co., Bethlehem, Pa.;

H. R. 10913. An act to compensate Talbird & Jenkins for balance due on contracts with Navy Department dated March 20 and October 9, 1919;

H. R. 12322. An act to quiet title and possession with respect to certain lands in Faulkner County, Ark.;