partisan job holding; to the Committee on Interstate and Foreign Commerce.

4321. Also, memorial of Federated Trades Council of Milwaukee, Wis., requesting a congressional investigation of the activities of the Department of Justice in connection with trial and conviction of Nicola Sacco and Bartolomeo Vanzetti; to the Committee on the Judiciary.

4322. By Mr. GALLIVAN: Petition of C. P. Franciscus, president United National Association of Post Office Clerks, 620 Colorado Building, Washington, D. C., offering certain recommendations looking to the promotion of a better Postal Service and the betterment of those employed in such service; to the Committee on the Post Office and Post Roads.

4323. By Mr. HALL of Indiana: Petition of voters of Amboy, State of Indiana, urging that steps be taken to bring to a vote a Civil War pension bill carrying the rates proposed by the National Tribune, to relieve needy and suffering veterans and their widows; to the Committee on Invalid Pensions.

4324. By Mr. KINDRED: Petition of the American Drug Manufacturers, that the Congress of the United States be urged to reduce at the forthcoming session the increased burden of taxation placed upon corporations by the revenue act of 1926; to the Committee on Ways and Means.

4325. By Mr. O'CONNELL of New York: Petition of National Foreign Trade Council of New York, favoring the passage of House bill 8997, to provide for a permanent parcels post with Cuba; to the Committee on Ways and Means.

4326. By Mr. SEGER: Petition of 53 employees of the George Hardy Payne Studios, of Paterson, N. J., for protection to their industry by the enactment of an adequate tariff; to the Committee on Ways and Means.

4327. By Mr. SINCLAIR: Petition of 43 residents of Williams County, N. Dak., protesting against the enactment of compulsory Sunday-observance legislation; to the Committee on the District of Columbia.

## SENATE

### MONDAY, *December 13, 1926*

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father, as we begin the duties of another week we invoke Thy help. Without Thee we can do nothing that is absolutely certain, and we find ourselves frequently debating the whys and wherefores of life. Help us with Thy wisdom. Guide our paths and glorify Thyself in and through us. For Jesus Christ's sake. Amen.

IRVINE L. LENROOT, a Senator from the State of Wisconsin, ROBERT N. STANFIELD, a Senator from the State of Oregon, and FRANCIS E. WARREN, a Senator from the State of Wyoming, appeared in their seats to-day.

#### THE JOURNAL

The Chief Clerk proceeded to read the Journal of the proceedings of the legislative day of Friday last when, on request of Mr. Curtis and by unanimous consent, the further reading was dispensed with and the Journal was approved.

#### PRESIDENTIAL APPROVAL

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that on December 13, 1926, the President approved and signed the act (S. 2858) to fix the salaries of certain judges of the United States.

#### SENATOR FROM NEW HAMPSHIRE

The VICE PRESIDENT laid before the Senate the certificate of election of GEORGE H. MOSES, of New Hampshire, which was read and ordered to be placed on file, as follows:

STATE OF NEW HAMPSHIRE,
EXECUTIVE DEPARTMENT.

This is to certify that on the 2d day of November, 1926, GEORGE H. MOSES was duly chosen by the qualified electors of the State of New Hampshire to represent said State in the United States Senate for the term of six years from the 4th day of March next.

Witness: His excellency our governor John G. Winant and our seal hereto affixed at Concord, this 11th day of November, in the year of our Lord 1926.

JOHN G. WINANT, *Governor.*

By the governor, with the advice of the council.

[SEAL.] HOBART PILLSBURY, *Secretary of State.*

#### CLAIMS AGAINST THE GERMAN GOVERNMENT (S. DOC. NO. 173)

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was read:

*To the Senate:*

I transmit herewith a report of the Secretary of State, in response to Senate Resolution 198 of April 5 (calendar day, April 14), 1926, requesting him to "transmit to the Senate, if not incompatible with the public interest, copies of all correspondence, notes, exchanges, and communications which have passed directly or indirectly between the Secretary of State and the Government of Germany respecting the settlement and payment of claims against the German Government for indemnification on account of destruction of life and property of American nationals subsequent to August 1, 1914, including the instructions given to Ambassador Kellogg, who represented the Department of State at the Paris finance conference, and also advise the Senate as to whether the State Department at the Paris conference, or otherwise, agreed that the United States should assume the burden of the payment of awards made in favor of American nationals against Germany, and accept from Germany in subrogation of the rights of its own nationals, annual installments of $11,000,000 for the payment of private American awards, and annual installments of $12,000,000 in reimbursement of the costs of the American Army of occupation of the Coblenz area on the Rhine, and in payment of other Government claims, as representing the entire obligation of the German Government to the Government of the United States in the premises and, if the Secretary made such an agreement, to advise the Senate of the considerations which induced him to make the same."

CALVIN COOLIDGE.

THE WHITE HOUSE,
*Washington, December 13, 1926.*

Mr. KING. Mr. President, I presume the usual course will be taken with respect to this message and the accompanying documents that has been taken with respect to other messages, and that the same will be printed.

Mr. BORAH. I did not understand the request of the Senator.

Mr. KING. I merely asked that the usual proceedings be had with respect to printing this message and accompanying documents.

The VICE PRESIDENT. The message will be referred to the Committee on Foreign Relations.

Mr. BORAH. I was about to ask that it be referred to that committee. I do not believe there will be any objection to having it printed, but I would like to investigate it.

Mr. UNDERWOOD. It is a very important document, and if it goes to the Committee on Foreign Relations, of which I am a member, I would like to have a chance to read it.

Mr. OVERMAN. Was the order made for the printing of the message and accompanying documents?

The VICE PRESIDENT. The order to print will be made.

#### MODIFICATION OF THE PROHIBITION LAW—NEW YORK STATE

The VICE PRESIDENT laid before the Senate a communication from the secretary of state of the State of New York, which was referred to the Committee on the Judiciary and ordered to be printed in the RECORD, as follows:

STATE OF NEW YORK,
SECRETARY OF STATE'S OFFICE,
*Albany, December 9, 1926.*

HON. EDWIN POPE THAYER,
*Secretary of the Senate, Washington, D. C.*

DEAR SIR: In compliance with chapter 850, Laws of 1926, we are inclosing herewith a certificate showing the result of question No. 1, in relation to ascertaining the opinion of the people of the State on the prohibition amendment.

An acknowledgment will be appreciated.

Very truly yours,

FLORENCE E. S. KNAPP,
*Secretary of State.*

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STATE OF NEW YORK,
OFFICE OF THE SECRETARY OF STATE, ALBANY.

I, Florence E. S. Knapp, secretary of state, do hereby certify that a meeting of the State board of canvassers was held in the office of the secretary of state on December 6, 1926.

After canvassing the votes on question No. 1, "Should the Congress of the United States modify the Federal act to enforce the eighteenth amendment so that the same shall not prohibit the manufacture, sale, transportation, importation, or exportation of beverages which are not in fact intoxicating as determined in accordance with the laws of the respective States?" said board determined that question No. 1 was duly adopted by the voters of this State at the general election held November 2, 1926, by the following vote:

Yes, 1,763,070; no, 598,484; blank, 540,611; void, 5,625; whole number, 2,907,790.

Witness my hand seal of office at the capitol, in the city of Albany, this 6th day of December, 1926.

[SEAL.] FLORENCE E. S. KNAPP,
*Secretary of State.*

ENLARGEMENT OF THE CAPITOL GROUNDS

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Interior, reporting, pursuant to law, relative to buildings and lands acquired under the provisions of the sundry civil acts of June 23, 1910 (36 Stat. 738), and March 4, 1911 (36 Stat. 1414), or subsequent acts, for the enlargement of the Capitol Grounds, together with a statement of receipts from, rentals, extension of Capitol Grounds for the period December 1, 1925, to and including November 30, 1926, which, with the accompanying paper, was referred to the Committee on Public Buildings and Grounds.

CONSTRUCTION OF RURAL POST ROADS

The VICE PRESIDENT laid before the Senate a communication from the Secretary of Agriculture, transmitting, pursuant to law, a report for the fiscal year ended June 30, 1926, concerning the appropriations for the construction of rural post roads in cooperation with the States, and the Federal administration of the work, which, with the accompanying report, was referred to the Committee on Agriculture and Forestry.

TRAVEL EXPENSES OF VOCATIONAL EDUCATIONAL BOARD

The VICE PRESIDENT laid before the Senate a communication from the secretary and chief clerk of the Federal Board for Vocational Education, transmitting, pursuant to law, two statements covering travel during the fiscal year ended June 30, 1926, under the appropriations administered by the board, of officers and employees on official business from Washington to points outside the District of Columbia, other than those whose regular duties require constant travel, together with their official titles, destinations of travel, business or work on account of which travel was made, and the total expense to the United States charged in each case, which, with the accompanying statements, was referred to the Committee on Appropriations.

POLICE COURT BUILDING IN THE DISTRICT

The VICE PRESIDENT laid before the Senate a communication from Charles Moore, chairman of the Commission of Fine Arts, and also signed by Gus A. Schuldt, presiding judge, police court, District of Columbia, and Walter F. McCoy, chief justice, Supreme Court, District of Columbia, reporting, pursuant to law, that "at a meeting held December 7, 1926, the location for the police court building was fixed in Judiciary Square, at the southeast corner thereof, near the intersection of Fourth and E Streets NW.," which was referred to the Committee on the District of Columbia.

DISPOSITION OF USELESS PAPERS

The VICE PRESIDENT laid before the Senate a communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of papers and documents on the files of the General Accounting Office not needed for the transaction of public business and having no permanent value or historic interest, which, with the accompanying list, was referred to a Joint Select Committee on the Disposition of Useless Papers in the Executive Departments.

The VICE PRESIDENT appointed Mr. HALE and Mr. MCKELLAR members of the joint select committee on the part of the Senate.

MEMORIAL

Mr. WILLIS presented a memorial numerously signed by sundry citizens of Canton and vicinity, in the State of Ohio, remonstrating against the passage of legislation providing for compulsory Sunday observance in the District of Columbia, which was referred to the Committee on the District of Columbia.

ACQUIREMENT OF LANDS IN THE DISTRICT

Mr. LENROOT, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 4663) authorizing the Secretary of the Treasury to acquire certain lands within the District of Columbia to be used as sites for public buildings, reported it without amendment.

BILLS INTRODUCED

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

Mr. JONES of Washington. Mr. President, I have been asked to introduce a bill, the title of which is "A bill to provide compensation for seamen injured and the dependents of seamen killed in the course of employment, to create a Federal seamen's insurance fund, and establishing vocational training, and for other purposes, leaving the seamen the right of section 33 of the merchant marine act of June 5, 1920."

This is a very important measure. It covers a very important problem. I have not had an opportunity to give it the consideration which it ought to have. In order that it may be referred to the committee so that hearings may be had and a study made of the question, I introduce the bill and designate it as a bill introduced by request.

The VICE PRESIDENT. The bill will be received and referred to the Committee on Commerce.

By Mr. JONES of Washington (by request):

A bill (S. 4730) to provide compensation for seamen injured and the dependents of seamen killed in the course of employment, to create a Federal seamen's insurance fund, and establishing vocational training, and for other purposes, leaving the seamen the right of section 33 of the merchant marine act of June 5, 1920; to the Committee on Commerce.

By Mr. ODDIE:

A bill (S. 4731) for the promotion and retirement of William H. Santelmann, leader of the United States Marine Band; to the Committee on Naval Affairs.

By Mr. FRAZIER:

A bill (S. 4732) granting an increase of pension to Annie C. David; to the Committee on Pensions.

By Mr. HALE:

A bill (S. 4733) granting an increase of pension to Hattie A. Cleaves (with accompanying papers); to the Committee on Pensions.

By Mr. DALE:

A bill (S. 4734) granting a pension to Mary A. Cantillion;

A bill (S. 4735) granting an increase of pension to Nellie J. Tracy;

A bill (S. 4736) granting an increase of pension to Evaline E. Cross (with accompanying papers);

A bill (S. 4737) granting an increase of pension to Julia Ducharme Spenard; and

A bill (S. 4738) granting an increase of pension to Charles J. Taber (with accompanying papers); to the Committee on Pensions.

By Mr. HARRISON:

A bill (S. 4739) for the relief of Harry C. Ford; to the Committee on Claims.

By Mr. UNDERWOOD:

A bill (S. 4740) to authorize St. Louis-San Francisco Railway Co. to construct, maintain, and operate a bridge across the Warrior River near Demopolis, Ala.; to the Committee on Commerce.

By Mr. SWANSON:

A bill (S. 4741) providing for the promotion of Lieut. Commander Richard E. Byrd, United States Navy, retired, and awarding to him a congressional medal of honor; and

A bill (S. 4742) providing for the promotion of Floyd Bennett, aviation pilot, United States Navy, and awarding to him a congressional medal of honor; to the Committee on Naval Affairs.

By Mr. HARRIS:

A bill (S. 4743) making eligible for retirement under the same conditions as now provided for officers of the Regular Army Maj. Homer Watkins, an officer of the United States Army during the World War, who incurred physical disability in line of duty; to the Committee on Military Affairs.

By Mr. WILLIS:

A bill (S. 4744) granting an increase of pension to Deborah A. Noyes (with accompanying papers); and

A bill (S. 4745) granting an increase of pension to Laura B. Reddick (with accompanying papers); to the Committee on Pensions.

By Mr. MAYFIELD:

A bill (S. 4746) authorizing the Secretary of Agriculture to collect and publish statistics of the grade and staple length of cotton; to the Committee on Agriculture and Forestry.

By Mr. SHORTRIDGE:

A bill (S. 4747) for the relief of Kenneth B. Turner, and

A bill (S. 4748) to authorize the President to appoint F. R. Weeks a major of Engineers in the Regular Army of the United States; to the Committee on Military Affairs.

By Mr. McNARY:

A bill (S. 4749) for the relief of Mary M. Jones; to the Committee on Claims.

A bill (S. 4750) granting an increase of pension to Anna V. Stickney; and

A bill (S. 4751) granting pensions and increase of pensions to certain soldiers, sailors, and marines of the Civil War, and certain widows of such soldiers, sailors, and marines, and for other purposes; to the Committee on Pensions.

By Mr. MEANS:
A bill (S. 4752) to amend section 3702 of the Revised Statutes; to the Committee on the Judiciary.
A bill (S. 4753) to provide relief for certain natives of Borongan, Samar, P. I., for rental of houses occupied by the United States Army during the years 1900 to 1903 (with accompanying papers);
A bill (S. 4754) to allow credits in the accounts of Harry Caden, special fiscal agent, Bureau of Reclamation, Department of the Interior (with accompanying papers);
A bill (S. 4755) for reimbursement of employees of the United States Veterans' Bureau who were formerly commissioned personnel of the United States Public Health Service, for all travel performed subsequent to June 7, 1924, under orders of the Secretary of the Treasury issued prior to that date (with accompanying papers); and
A bill (S. 4756) for the relief of Capt. Ellis E. Haring and Edward F. Batchelor (with accompanying papers); to the Committee on Claims.
By Mr. CURTIS:
A bill (S. 4757) granting an increase of pension to Maria Brim (with accompanying papers);
A bill (S. 4758) granting an increase of pension to Jane Broughton (with accompanying papers);
A bill (S. 4759) granting an increase of pension to Mary E. Bennett (with accompanying papers);
A bill (S. 4760) granting a pension to John L. Delaney (with accompanying papers);
A bill (S. 4761) granting an increase of pension to Isabelle Dickerson (with accompanying papers);
A bill (S. 4762) granting an increase of pension to Sarah E. Daniels (with accompanying papers);
A bill (S. 4763) granting an increase of pension to Asenath Elliott (with accompanying papers);
A bill (S. 4764) granting a pension to John F. Furrow (with accompanying papers);
A bill (S. 4765) granting a pension to Lou Etta Hobble (with accompanying papers);
A bill (S. 4766) granting an increase of pension to James Hunt (with accompanying papers);
A bill (S. 4767) granting an increase of pension to Emily J. Kirkpatrick (with accompanying papers);
A bill (S. 4768) granting a pension to Lloyd Kirkman (with accompanying papers);
A bill (S. 4769) granting an increase of pension to Mary A. Lukenbill (with accompanying papers);
A bill (S. 4770) granting an increase of pension to George W. Lear (with accompanying papers);
A bill (S. 4771) granting an increase of pension to Sidonia Lanitz (with accompanying papers);
A bill (S. 4772) granting an increase of pension to Robert T. McKeen (with accompanying papers);
A bill (S. 4773) granting an increase of pension to Mary J. Neely (with accompanying papers);
A bill (S. 4774) granting a pension to Emma C. Seawell (with accompanying papers);
A bill (S. 4775) granting an increase of pension to Maggie Sellers (with accompanying papers);
A bill (S. 4776) granting an increase of pension to Minerva E. Stearns (with accompanying papers); and
A bill (S. 4777) granting an increase of pension to Ellen Temperance Smith (with accompanying papers); to the Committee on Pensions.
By Mr. SHIPSTEAD:
A bill (S. 4778) granting an increase of pension to Albert Steinhauser; and
A bill (S. 4779) granting an increase of pension to Mathew Galvin; to the Committee on Pensions.
By Mr. WADSWORTH:
A bill (S. 4780) for the relief of Agfa Raw Film Corporation; to the Committee on Finance.
A bill (S. 4781) to amend section 9 of the act entitled "An act to readjust the pay and allowances of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service," approved June 10, 1922; to the Committee on Military Affairs.
By Mr. STEPHENS:
A bill (S. 4782) to remove a cloud on title; to the Committee on Public Lands and Surveys.
By Mr. McMASTER (for Mr. NORBECK):
A bill (S. 4783) granting a pension to Clara W. Stearns;
A bill (S. 4784) granting a pension to Baptista Pourier;
A bill (S. 4785) granting an increase of pension to Francis M. Zeibach;
A bill (S. 4786) granting a pension to George Cuts-Half (with accompanying papers);
A bill (S. 4787) granting an increase of pension to Elizabeth A. Palmer (with accompanying papers);
A bill (S. 4788) granting a pension to E. Jane De Garmo (with accompanying papers);
A bill (S. 4789) granting a pension to M. M. Cummings (with accompanying papers);
A bill (S. 4790) granting a pension to Carl B. McQueen (with accompanying papers);
A bill (S. 4791) granting a pension to Philip F. Wells (with accompanying papers);
A bill (S. 4792) granting an increase of pension to Martha H. Hall (with accompanying papers);
A bill (S. 4793) granting an increase of pension to Sarah C. Hixson (with accompanying papers); and
A bill (S. 4794) granting a pension to Louisa A. Scoville (with accompanying papers); to the Committee on Pensions.
By Mr. BROUSSARD:
A bill (S. 4795) for the relief of B. F. Cowley; to the Committee on Claims.
A bill (S. 4796) to amend section 1 of the act entitled "An act in relation to the execution of declarations and other papers in pension claims," approved July 26, 1892; to the Committee on Pensions.
By Mr. REED of Pennsylvania:
A bill (S. 4797) granting an increase of pension to Henrietta A. Rumsey (with accompanying papers); to the Committee on Pensions.

EFFIE DAVIES DINGER

Mr. GOFF submitted the following resolution (S. Res. 295), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

*Resolved*, That the Secretary of the Senate hereby is authorized and directed to pay from the contingent fund of the Senate to Effie Davies Dinger, widow of David C. Dinger, late a messenger in the employ of the Senate, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

MESSAGE FROM THE HOUSE—ENROLLED BILLS AND JOINT RESOLUTION SIGNED

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were thereupon signed by the Vice President:
H. R. 7930. An act for the relief of the Broad Brook Bank & Trust Co.;
H. R. 9232. An act for the relief of Isaac A. Chandler;
H. R. 12393. An act to amend paragraphs 1 and 2 of section 26 of the act of June 30, 1919, entitled "An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1920"; and
H. J. Res. 256. Joint resolution relieving posts or camps of organizations composed of honorably discharged soldiers, sailors, or marines from liability on account of loss or destruction of obsolete rifles loaned by the War Department.

PRESIDENTIAL POWER TO REMOVE FEDERAL OFFICERS (S. DOC. NO. 174)

Mr. SWANSON. Mr. President, the Supreme Court recently rendered a decision of far-reaching importance in connection with the power of the President to remove Federal officers. There has been a great demand for that opinion. The oral arguments before the court are also very illuminating. I ask unanimous consent, therefore, to have printed as a public document for the use of the Senate the opinion of the court in that case, also the dissenting opinion, together with the briefs and the oral arguments, which are very able, and which were delivered by the senior Senator from Pennsylvania [Mr. PEPPER] and the then Solicitor General, Mr. Beck. I think there is such interest in the subject that the matter I have indicated should be in the shape of a public document, as there will be, I repeat, great demand for it.
The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

PATENTS ISSUED TO PERSONS IN ARMED FORCES

The VICE PRESIDENT. The Chair lays before the Senate a resolution coming over from a previous day, which will be read.
The Chief Clerk read the resolution (S. Res. 293), submitted by Mr. ERNST on the 10th instant, as follows:

*Resolved*, That the Secretary of the Senate be, and he is hereby, directed to return to the House of Representatives the enrolled bill (S. 4480) providing for the extension of the time limitations under

which patents were issued in the case of persons who served in the armed forces of the United States during the World War, together with the engrossed bill, with the request that the Speaker of the House be authorized to rescind his action in signing the enrolled bill; that in the event such authority is granted, the House be, and it is hereby, respectfully requested to reconsider its vote on the passage of the bill and return the engrossed bill to the Senate.

The VICE PRESIDENT. The question is on agreeing to the resolution.

The resolution was agreed to.

The VICE PRESIDENT. Morning business is closed. The calendar under Rule VIII is in order.

CHANGE OF REFERENCE

Mr. KING. Mr. President, a day or two ago I introduced a bill (S. 4605) to cede unreserved public lands to the several States, which was referred inadvertently to the Committee on Mines and Mining. It ought to go to the Committee on Public Lands and Surveys, and I ask that it be so referred.

The VICE PRESIDENT. Without objection, the bill will be so referred. The calendar under Rule VIII is in order.

COTTON STATISTICS

Mr. MAYFIELD. Mr. President, the cotton futures act of 1916 limits the number of grades of cotton that can be tendered on contract. The measure which I introduced in the Senate this morning authorizes and directs the Secretary of Agriculture to collect and publish annually statistics concerning the grades and staple length of stocks of cotton known as the "carry over" or "surplus" on hand the 1st day of August of each year in warehouses and other establishments. In these statistics to be published by the Secretary of Agriculture cotton which is tenderable on contracts of sale for future delivery under the cotton futures act is to be reported separately from that which is untenderable under said act.

It is estimated by those who are in a position to know that approximately 4,000,000 bales of this year's cotton crop is of such low grade that it can not be tendered on contracts of sale under the cotton futures act. This low-grade cotton is included in the "carry over" or "surplus." The demand for low-grade cotton is limited and the result is that the low-grade cotton gradually increases the "surplus" from year to year.

When the Government publishes a report showing that there are, say, 5,000,000 bales of cotton in the "carry over" or "surplus," the general impression is that all of this cotton is tenderable on contracts of sale under the cotton futures act. This impression is quite misleading, because, as a matter of fact, a very large amount of the "carry over" or "surplus" cotton is not tenderable on contracts of sale under the cotton futures act.

Separating the tenderable cotton from the untenderable cotton will, in my opinion, bring about an immediate advance in the price of cotton that is tenderable on contracts of sale under the law, because the buying public would realize that the low-grade cotton which can not be tendered on contracts of sale under the law would be separated from the tenderable cotton, and therefore the "carry-over" or "surplus" crop of good high-grade commercial spinable cotton would be reduced several million bales.

In addition to this, the legislation which I propose, Mr. President, would bring about an improvement in the quality of cotton grown which would undoubtedly give to the banks and merchants who finance the production of cotton a better security. These contentions can not be controverted. I trust the Committee on Agriculture will give this measure its immediate consideration.

Mr. HEFLIN. Mr. President, I am very glad to hear this statement from the junior Senator from Texas. I think the bill which he has introduced is a very meritorious one, and I should like very much to see it enacted into law.

Mr. SMITH. Mr. President, if the Senator will allow me, I would like to state that perhaps there never was in the history of the cotton business of America a greater necessity than now for doing the thing which is contemplated in the bill presented by the junior Senator from Texas. More and more staples have come into prominence rather than what we call grades.

The grades, as we know them, have to do with the color; the staple has to do with the length and strength of the fiber. Each fiber length has the same number of grades. Under the cotton futures act only cotton that is at least seven-eighths of an inch in length of fiber is tenderable, and nothing below middling in color.

It is of the utmost importance that a census should be taken annually to inform the consuming public as to just what amount of cotton is on hand and what amount of a given crop comes within the commercial or merchantable form allowed under the law. I am glad that the junior Senator from Texas [Mr. MAYFIELD] has introduced this bill. I intended to ask Congress to pass an act—and I shall offer such a bill as an amendment to his bill—authorizing a census to be taken, not only as to grades of cotton but as to length of staple and the actual count of bales on the 1st day of August in each year of the cotton held in hand in America. As the matter now stands, there is a mere estimate, and duplication occurs from port to port and from concentration point to concentration point, until the trade does not know and has very reasonable ground for doubt as to our official publication as to the carry-over of cotton from year to year. Not only does the public not know the grade and the staple, but it does not know how near the bureau is to the actual count of the cotton still on hand in America.

I propose to ask, in conjunction with the legislation now proposed, that Congress shall authorize a census to be taken and an actual count to be made of the number of bales outside of the linters during the cotton year, which runs from August 1 one year to August 1 the next, so that the trade may be officially, truthfully, and honestly advised of just how much cotton is on hand to carry over from the old crop into the new crop.

Mr. HEFLIN. Mr. President, I concur in what the Senator from South Carolina has just said. He and I have helped to secure important cotton legislation in the past. He has done much for the cotton industry. I have previously said in this body and in the other branch of Congress that in my judgment he has done more for the cotton industry than has any other one man who has ever come to Congress from the cotton-growing States. It is a very vital question which the Senator from Texas [Mr. MAYFIELD] has presented and about which the Senator from South Carolina [Mr. SMITH] has spoken. I stand ready to aid them in any way that I can in the passage of this proposed legislation.

The country generally knows that the cotton producers are suffering greatly this year. Cotton to-day is selling away below the cost of production. The cotton growers of my State alone have lost $44,000,000 on the present crop. Those who read the newspapers and see the price of cotton quoted at 11 cents and 12 cents per pound think that is the price that the cotton planters are getting for the crop. That price, however, is the price paid for the very best grades of cotton, but some of that product is selling as low as 5 cents a pound. The junior Senator from Texas [Mr. MAYFIELD] states that he has sold a bale of cotton for $6.75 a hundred, $33.75 a bale. So the crop this year is entailing a great loss to the cotton producers.

If there ever was a time when the Congress should do something to aid the cotton producer and the grain grower it is now. Cheap fertilizer would do very much for the cotton farmers and for the grain growers. There are some sections in the grain-growing areas where fertilizer is needed, and as the years come and go more fertilizer will be needed.

MUSCLE SHOALS

Mr. DENEEN. Mr. President, I ask unanimous consent that the call of the calendar be dispensed with, so that we can take up the Muscle Shoals matter.

Mr. McNARY. Mr. President, I shall have to object to that course. I want the Senator to make his speech on Muscle Shoals at the first available opportunity, but I do not want to dispense with the business of the morning hour.

Mr. HARRISON. Mr. President, may I ask the Senator from Oregon a question? The only objection the Senator has is to taking it up in the morning hour? At 2 o'clock he would have no objection?

Mr. McNARY. Not at all.

Mr. HARRISON. Is it true that there would be no objection to bringing it before the Senate for consideration at 2 o'clock?

Mr. McNARY. There are certain routine matters which should receive the attention of the various members of the body during the morning hour.

Mr. HEFLIN. Mr. President, I want to suggest to the Senator from Oregon that we might take up those routine matters some other morning. This is the only day, I think, when we are going to get a chance to take up the Muscle Shoals matter. The rivers and harbors bill comes before the Senate to-morrow at 2 o'clock. We would like to have all the time we can to-day to discuss the Muscle Shoals matter. If we can get at it early enough, I think we can finish with it by 3, or certainly by 4, o'clock.

Mr. McNARY. Finish with what?

Mr. HEFLIN. Discussing the Muscle Shoals bill.

Mr. McNARY. I think I shall insist on my attitude, and it is a most friendly one, so far as Muscle Shoals is concerned,

from the standpoint of its being considered; but we ought to go along and clean up the morning work and then take it up. If we can get through with it by 1 o'clock, very well and good.

Mr. CURTIS. The Senator understands that routine morning business is closed, does he not? The only thing now in order is the call of the calendar.

Mr. McNARY. That is correct.

Mr. CURTIS. We had a call of the calendar the other day for unobjected bills and went clear through it. I wonder if the Senator will not consent, because the Senator from Illinois is very anxious to present the report of the committee, that he may be permitted to do that to-day? We have to take up the impeachment matter at 1 o'clock, the Senator will remember, and that, therefore, would interrupt the call of the calendar. As the Senator from Ilinois is ready to proceed with his speech, I hope the Senator from Oregon will not object.

Mr. McNARY. Very well. I gladly accord the privilege to the Senator from Illinois if he wants to make a speech.

Mr. WILLIS. Mr. President, I submit a telegram on this subject, which I have just received from L. J. Taber, of Columbus, Ohio, master of the National Grange, which I ask may be printed in the RECORD.

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

COLUMBUS, OHIO, *December 12, 1926.*

Senator FRANK B. WILLIS,
*Washington, D. C.:*

Grange favors leasing Muscle Shoals by this session of Congress. However, not satisfied with Alabama Power proposition. Could not the matter be referred again to Agricultural Committee so all propositions could be considered?

L. J. TABER,
*Master National Grange.*

Mr. DENEEN obtained the floor.

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

The VICE PRESIDENT. The clerk will call the roll.

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

| | | | |
|---|---|---|---|
| Ashurst | Fletcher | King | Sheppard |
| Bayard | Frazier | Lenroot | Shipstead |
| Bingham | George | McKellar | Shortridge |
| Blease | Gillett | McLean | Smith |
| Borah | Glass | McMaster | Smoot |
| Bratton | Goff | McNary | Stanfield |
| Broussard | Gooding | Mayfield | Steck |
| Bruce | Gould | Means | Stephens |
| Cameron | Greene | Metcalf | Stewart |
| Capper | Hale | Moses | Swanson |
| Copeland | Harreld | Neely | Trammell |
| Couzens | Harris | Norris | Tyson |
| Curtis | Harrison | Oddie | Underwood |
| Dale | Hawes | Overman | Wadsworth |
| Deneen | Heflin | Pepper | Walsh, Mass. |
| Dill | Howell | Phipps | Walsh, Mont. |
| du Pont | Johnson | Ransdell | Warren |
| Edge | Jones, N. Mex. | Reed, Mo. | Watson |
| Edwards | Jones, Wash. | Reed, Pa. | Wheeler |
| Ferris | Kendrick | Sackett | Willis |
| Fess | Keyes | Schall | |

Mr. FRAZIER. I wish to announce that my colleague, the junior Senator from North Dakota [Mr. NYE], is unavoidably absent on account of illness in his family. I wish this announcement to stand for the day.

Mr. CURTIS. I desire to announce the unavoidable absence of the junior Senator from Wisconsin [Mr. LA FOLLETTE] on account of illness and that the junior Senator from Indiana [Mr. ROBINSON] is absent on account of illness in his family. I will let this announcement stand for the day.

Mr. McMASTER. The senior Senator from South Dakota [Mr. NORBECK] is necessarily absent. I ask that this announcement may stand for the day.

The VICE PRESIDENT. Eighty-three Senators having answered to their names, a quorum is present. The Senator from Illinois has the floor.

Mr. HARRISON. Mr. President, may I ask the Senator from Illinois a question?

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

Mr. DENEEN. I yield.

Mr. HARRISON. May I ask the Senator from Illinois what is the program about Muscle Shoals? What does the Senator intend to do about it?

Mr. DENEEN. I desire to have the bill taken up for consideration.

Mr. HARRISON. Does not the Senator think it would probably be better to ask unanimous consent now for the immediate consideration of the bill so that it will be pending and the Senator can then speak upon it? Some of the rest of us desire to discuss the matter too.

Mr. McKELLAR. Has the Senator from Illinois made a motion or request to that effect?

Mr. DENEEN. I ask unanimous consent to present the report.

Mr. McKELLAR. I shall object to its being taken up at this time. I have no objection whatever to the Senator speaking, of course.

Mr. HARRISON. Mr. President, will the Senator yield until I can ask the Senator from Tennessee a question?

Mr. DENEEN. Certainly.

Mr. HARRISON. We may just as well know where we are in this matter. We understand there are various angles to the matter and that Senators have various views upon it. The only way we are going to be able to get this matter before the Senate is either by a motion or by unanimous consent. I understand the Senator from Oregon [Mr. McNARY] is going to make a motion to send the bill, together with all other similar bills relative to Muscle Shoals, back to the committee. If we can arrange now as to some procedure we will then know what we can do about the matter.

Mr. McNARY. That is a very easy thing to do. I think it can readily be worked out. The Senator from Illinois [Mr. DENEEN] is going to discuss his bill, the report, and the bids and the Senator from Kentucky [Mr. SACKETT] is going to discuss why there should be a rejection of this bid and a new proposal made. After that I intend to move to refer this proposal, as well as the one now pending, which is known as the Slemp proposal, and all others back to the Committee on Agriculture and Forestry.

Mr. HARRISON. Could not the Senator allow us first to get the bill before the Senate, and then make his motion to send it and other bills to the committee?

Mr. McNARY. What is the difference between the two ways of procedure?

Mr. HARRISON. The Senator from Illinois has nothing now before the Senate to which to address himself.

Mr. McNARY. The Senator has a speech before the Senate.

Mr. HARRISON. He has a speech, but there is no bill before the Senate.

Mr. McNARY. The bill can not come up.

Mr. HARRISON. There are some of us who do not like to speak unless there is some pending question.

Mr. McNARY. Very well: I shall insist upon my motion after speeches on the matter shall have been concluded.

Mr. UNDERWOOD. Mr. President, of course I do not wish to interfere with the speech of the Senator from Illinois, but before he proceeds I desire to say that if we are to have a motion to refer this matter to the committee without discussion in the morning hour, I shall certainly insist on the regular order unless it is understood that I may have an equal opportunity to discuss the question before the reference to the committee shall be made.

I should not inject myself into the business of the Senate in this way or interfere with the Senator from Illinois except under the peculiar existing circumstances. I am sure the Senator understands this discussion involves a question which comes from my State; it is a very vital matter to my constituents. As I understand the rule, before 1 o'clock, as there is pending morning business, the motion to refer would not be debatable.

Mr. McNARY. I can assure the Senator from Alabama that I shall not make the motion under those considerations in any way that would limit debate.

Mr. UNDERWOOD. I have no desire to have protracted debate, but if there is going to be any discussion of the matter at all before the question of reference shall be decided, I wish to insist that I shall have an opportunity to be heard, not to any great extent; but I think, representing in part the State in which this project is located, it ought not to be taken up in an unusual way. I hope that the Senator from Illinois and the Senator from Oregon may be willing to let the matter go to the point where we may agree on some reasonable debate, and in the usual way, so that an expression of those who are vitally interested in the matter may be had on both sides of the Senate.

Mr. McNARY. I did not intend to make a motion to refer any of these proposals to the Committee on Agriculture and Forestry until after the debate should have been exhausted.

Mr. UNDERWOOD. Then, as I understand, the Senator from Oregon is not going to attempt to cut off debate?

Mr. McNARY. Not at all.

Mr. UNDERWOOD. And there may be an opportunity to discuss the subject before his motion shall be made?

Mr. McNARY. After the final speaker shall have concluded his remarks, and every Senator has had ample opportunity to be heard, I shall then move the reference.

Mr. UNDERWOOD. Of course, the Senator has the right to make the motion, and the Senate will decide it. If that is the status, I will not interfere with the remarks of the Senator from Illinois.

Mr. DENEEN addressed the Senate. After having spoken for half an hour,

IMPEACHMENT OF JUDGE GEORGE W. ENGLISH

The VICE PRESIDENT (at 1 o'clock p. m.). The hour having arrived to which the Senate, on November 10 last, sitting for the trial of the impeachment of George W. English, United States district judge for the eastern district of Illinois, on articles of impeachment preferred against him by the House of Representatives, adjourned, the legislative business of the Senate will now be suspended and the Senate, sitting for the said trial, will resume its session. The Sergeant at Arms will make proclamation.

The Sergeant at Arms (David S. Barry) made proclamation as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silence, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against George W. English, judge of the United States Court for the Eastern District of Illinois.

The Assistant Doorkeeper of the Senate (Carl A. Loeffler) announced the appearance of the managers on the part of the House of Representatives, as follows:

I have the honor to announce the managers on the part of the House of Representatives to conduct proceedings in the impeachment of George W. English, United States district judge for the eastern district of Illinois.

The VICE PRESIDENT. The Sergeant at Arms will conduct the managers to the seats provided them.

Representative EARL C. MICHENER, of Michigan, chairman; Representative HATTON W. SUMNERS, of Texas; Representative ANDREW J. MONTAGUE, of Virginia; Representative WILLIAM D. BOIES, of Iowa; Representative IRA G. HERSEY, of Maine; Representative JOHN N. TILLMAN, of Arkansas; Representative C. ELLIS MOORE, of Ohio; Representative FRED H. DOMINICK, of South Carolina; and Representative GEORGE R. STOBBS, of Massachusetts, the board of managers, preceded by the Sergeant at Arms of the House of Representatives (Joseph E. Rodgers), entered the Chamber and were conducted to the seats provided for them in the area in front of the Secretary's desk.

The VICE PRESIDENT. The clerk will call the roll of Senators who have not heretofore taken the oath of office as provided by the rules of the Senate.

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

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk (John C. Crockett) called the roll, and the following Senators answered to their names:

| | | | |
|---|---|---|---|
| Ashurst | Fletcher | King | Shipstead |
| Bayard | Frazier | Lenroot | Shortridge |
| Bingham | George | McKellar | Simmons |
| Blease | Gillett | McMaster | Smith |
| Borah | Glass | McNary | Smoot |
| Bratton | Goff | Mayfield | Stanfield |
| Broussard | Gooding | Means | Steck |
| Bruce | Gould | Metcalf | Stephens |
| Cameron | Greene | Moses | Stewart |
| Capper | Hale | Neely | Swanson |
| Copeland | Harreld | Norris | Trammell |
| Couzens | Harris | Oddie | Tyson |
| Curtis | Harrison | Overman | Underwood |
| Dale | Hawes | Pepper | Wadsworth |
| Deneen | Heflin | Phipps | Walsh, Mass. |
| Dill | Howell | Ransdell | Walsh, Mont. |
| du Pont | Johnson | Reed, Mo. | Warren |
| Edge | Jones, N. Mex. | Reed, Pa. | Watson |
| Edwards | Jones, Wash. | Sackett | Weller |
| Ferris | Kendrick | Schall | Wheeler |
| Fess | Keyes | Sheppard | Willis |

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

The clerk will call the names of Senators who have not heretofore taken the oath as provided by the rules of the Senate, and they will present themselves at the desk to take the oath.

The Chief Clerk called the names of the following Senators: Mr. CAPPER, Mr. DU PONT, Mr. GOULD, Mr. HAWES, Mr. PITTMAN, Mr. ROBINSON of Indiana, Mr. STEWART, and Mr. WALSH of Massachusetts.

Mr. CAPPER, Mr. DU PONT, Mr. GOULD, Mr. HAWES, Mr. STEWART, and Mr. WALSH of Massachusetts advanced to the Secretary's desk, and the oath was administered to them by the Vice President.

Mr. Manager MICHENER. Mr. President, in behalf of the managers on the part of the House of Representatives I present a certified copy of a resolution passed by the House on the 11th day of December, 1926, and ask that it may be read by the clerk.

The VICE PRESIDENT. The clerk will read as requested.

The Chief Clerk read the resolution, as follows:

House Resolution 327

IN THE HOUSE OF REPRESENTATIVES, UNITED STATES,
*December 11, 1926.*

*Resolved*, That the managers on the part of the House of Representatives in the impeachment proceedings now pending in the Senate against George W. English, late judge of the District Court of the United States for the Eastern District of Illinois, be instructed to appear before the Senate, sitting as a Court of Impeachment in said cause, and advise the Senate that in consideration of the fact that said George W. English is no longer a civil officer of the United States, having ceased to be a district judge of the United States for the eastern district of Illinois, the House of Representatives does not desire further to urge the articles of impeachment heretofore filed in the Senate against said George W. English.

Mr. Manager MICHENER. Mr. President, pursuant to the terms of the said resolution, the managers on the part of the House, by direction of the House of Representatives, respectfully request the Senate to discontinue the proceedings now pending against George W. English, late district judge of the United States for the eastern district of Illinois.

Mr. CURTIS. Mr. President, in view of the resolution passed by the House of Representatives and the statement upon the part of the managers, I present the following order.

The VICE PRESIDENT. The clerk will read the order.

The Chief Clerk read the order, as follows:

*Ordered*, That the impeachment proceedings against George W. English, late judge of the District Court of the United States for the Eastern District of Illinois, be, and the same are, duly dismissed.

Mr. BLEASE. Mr. President, I do not agree with those Senators——

The VICE PRESIDENT. Under Rule XXIII, the rule governing impeachment proceedings, the order is not debatable.

Mr. BLEASE. Then I rise to a question of personal privilege. If we are going to pass this order without giving Senators a chance to speak on it, I want to know it.

The VICE PRESIDENT. Is there objection to the Senator from South Carolina proceeding?

Mr. CURTIS. I hope there will be no objection. Let the Senator make his speech if he wants to do so.

Mr. BLEASE. I do not want to make a speech. I want to file my reasons for not voting for the order submitted by the Senator from Kansas [Mr. CURTIS].

The VICE PRESIDENT. There being no objection, the Senator from South Carolina will proceed.

Mr. BLEASE. Mr. President, I do not agree with those Members of the Senate who advocate the dismissal of these charges upon the resignation of Judge English, nor have I the slightest inclination to burden others with duties other than those already imposed upon them; but, in my opinion, it is a serious mistake, after things have gone so far, to permit Judge English to resign—not Judge English especially, but any judge of the United States so charged. If, after the jury has been sworn, a nolle prosequi is entered, does that not automatically acquit the defendant?

Would a humble citizen who had committed a crime, if a crime had been committed, and was charged with it, be given such leniency? For instance, if a man holding some office was caught with whisky, would he be permitted to resign? Would a clerk in the Treasury Department, or an Assistant Treasurer, who accepted a bribe or had stolen money, be allowed to resign without further punishment? Would the cashier of a bank in which the Government had a controlling interest, who had become a thief, be allowed to resign and escape further punishment?

Are we now to say to all Federal judges, "Do as you like; drink liquor, accept bribes, steal, curse from the bench, live as immorally as you wish, and if caught, just resign?" Which is the crime, doing these things or being caught doing them?

Why not deal with all Americans alike? Why should the prominent men, or so-called "big men," be allowed to do as they please, to violate the law with impunity and escape punishment, while the ordinary American is punished for each little infraction?

We saw a most disgusting instance recently. A policeman who, by mere chance, was assigned to be a guard at the Rumanian Embassy while Queen Marie was being entertained, was offered a drink, a glass of wine, on the outside. It was found out; he was haled before the police trial board and fined $75 and reprimanded for taking a glass of wine, or being intoxicated, while other Americans a little higher up,

some possibly intoxicated, were drinking wine at the same time and were hailed in the newspapers the next morning as the distinguished entertainers of our foreign visitor.

I wish to go on record to-day as disapproving any such enforcement of law, and for that reason I shall vote to proceed with the trial of this man. If he is not guilty, let us say so, and leave him not under the stigma of disgrace for which his children and his grandchildren must suffer. If he is guilty, punish him as if he was any other citizen of this great American Nation. Unless we set this precedent, and our courts keep it up, gunmen, mail robbers, lynchers, and such criminals will continue to take into their own hands the laws which we, when we have the opportunity, refuse to enforce.

The grand jury (House of Representatives) has been handed the indictment, examined the witnesses, and returned a true bill. The defendant (English) has appeared at the bar, been arraigned, and plead not guilty. The Attorney General (House managers) should do his duty and proceed with the trial, and then let the court (the Senate) and petit jurors perform their proper functions without fear or favor, that the people may have confidence in their tribunals. Then, and not until then, will property rights and human lives be properly protected and peace reign supreme.

I say this with all respect and kindness for everybody connected with the case, but I feel that it is time that a halt be called against this discrimination in the enforcement of our laws, and the best place to start is in the Senate of the United States and the Supreme Court of the United States.

I ask to have inserted in the RECORD a clipping from the Washington Post of October 29, 1926, and one from the Washington Herald of November 22, 1926, to further show the partiality shown in the enforcement of our laws in this country.

Lieutenant Raedy is quoted as saying:

It was pretty wild there that night. If he had been an old-timer on the force, he could have held his liquor, and gone about his business and no one would have known anything about it.

This was at a foreign embassy. No one was arrested. The other was in an American club. One was considered a reception for a queen, who possibly was used as a drawing card; the other a reception for Americans, and all were arrested. And yet we boast of equal rights to all and special privileges to none! It is no wonder that many of our people disrespect and disregard our laws and law enforcement.

The VICE PRESIDENT. Without objection, the newspaper articles will be printed in the RECORD as requested.

The articles are as follows:

[From the Washington Post, October 29, 1926]

LIQUOR

DRUNK GUARDING QUEEN, POLICEMAN IS FINED $75—RUMANIAN LEGATION TOO HOSPITABLE, STARKWEATHER EXPLAINS TO BOARD—WILD NIGHT, RAEDY SAYS

Policeman Lafone Starkweather, of the third precinct, was arraigned before the police trial board yesterday on a charge of having been intoxicated while specially detailed to guard the Rumanian Legation during the recent visit of Queen Marie. Because of his previous good record, he was not dismissed from the force but was fined $75.

Starkweather was charged with "sitting on a box inside of a yard at 1607 Twenty-third Street NW. in an apparently dazed condition," and with being intoxicated. The charges were made by Sergt H. T. Burlingame, who testified that he found Starkweather.

The policeman told the board that the "hospitality was too generous" for his inexperienced drinking ability, and asked that they be as lenient as possible. Lieut. Michael Raedy, of the third precinct, was the star defense witness. He testified that he had assigned Starkweather to the detail because he knew he was not a drinking man and because he believed that the policeman could "withstand the temptations down at the legation."

"Oh, it was pretty wild there that night," Raedy said when the trial board members looked askance at his testimony. "If he had been an old-timer on the force, he could have held his liquor and gone about his business and no one would have known anything about it," Lieutenant Raedy said.

[Clipping from Washington Herald, November 22, 1926]

NIGHT CLUB RAID

SCORE NABBED IN PIRATES' CLUB RAID—MEN AND GIRLS IN PANIC WHEN ALARM SOUNDS—LOUISE JOHNSON, 19, AND THREE OTHER DINERS, WITH MANAGER AND AID, TO FACE COURT

Police opened their drive against Washington night clubs early yesterday with a spectacular raid at the Pirates' Den, 1219 New York Avenue NW., in which nearly a score of fashionably dressed women and men were arrested.

In evening attire the women, several hysterical, and the men were marched into a patrol wagon and taken to the first precinct station. Many were released after being questioned, while the others were charged with various violations.

MANAGER IS HELD

John Benton, manager, 47, who gave his address as the Night Club, and his secretary, Louis Baker, 24, of the Brunswick Apartments, were charged with maintaining a disorderly house. Both were released after depositing collateral.

The raid was the first of a series to be conducted in the downtown section against night clubs. Lieut. James Beckett and Sergt. O. J. Letterman, night commanders of the first precinct, declared certain "clubs" have been a constant annoyance.

Squads of plain-clothes men working with a detachment from the Women's Bureau have been instructed to seek evidence against the "clubs" preparatory to staging the raids.

HESSE VERY STRICT

Maj. Edwin B. Hesse, superintendent of police, last night said he was against all night clubs and that he intends to compel the owners to observe the laws to the fullest extent. He admitted he has instructed the men under his command to watch for all violations and make arrests wherever necessary.

Lieut. Mina C. Van Winkle, head of the Women's Bureau, who is cooperating personally in the drive, declared last night that night clubs are not needed in Washington. She said:

"The city is too small to maintain the clubs, as most of those who patronize them can't afford the clubs either financially or physically. Many young girls, seeking adventure, attend these resorts nightly, losing their willpower under the influence of strong drink and are made the tools of the older men."

ONE GIRL ARRESTED

Besides the manager and secretary of the Pirates' Den, others who were charged gave the following names and addresses: Luther R. King, 35, 134 Q Street NW., intoxication; Ignatius George Hanley, 24, 812 Twenty-fourth Street NW., intoxication; Miss Mary Louise Johnson, 19, 2216 Pennsylvania Avenue NW., disorderly conduct; and Julian H. Swain, 23, 2123 I Street NW., intoxication and disorderly conduct. The others, after being questioned, were released.

Police say they have appeared at the "club" nightly, in competition with taxicab drivers, since the Den opened. The cabs lined the curb in front of the place, while police waited in the shadows of doorways and alleys, each waiting for "customers."

Many of the guests leaving for other places in the early morning hours were unable to traverse the distance between the Den exit and the awaiting cabs in their staggering conditions. These fell into the arms of police.

PIRATES DEFEATED

"Fourteen men on a dead man's chest.
Yo, ho! And a bottle of rum."

This song and the flag of the skull and bones went down to a smashing defeat as the blue uniforms of the police and the gaudy garb of the "pirates" blended during the raid of early yesterday.

It was 3 o'clock in the morning when the police "cutter"—the first-precinct patrol—sailed forth, manned by Capt. Thaddeus Bean, to take the "pirates" by surprise in the night. It slowly made its way within sight of the Den, then hid under the cover of darkness.

Lieutenant Beckett, Sergeant Letterman, with Detectives Al Mansfield, J. E. Kane, and R. Aggleson, and Policemen C. C. Stepp, R. S. Bryant, and C. K. Culver embarked for close contact with the "pirates," closing upon the Den from all sides.

As the porthole, or sighting door of the Den opened, the police made a rush, battling their way through.

Mr. DILL. Mr. President, I ask unanimous consent to be permitted to make a short statement.

The VICE PRESIDENT. Without objection, the Senator from Washington will proceed.

Mr. DILL. Mr. President, I wish to state my reasons for being opposed to this proposed order of dismissal.

A Federal judge holds an office of the highest public trust. He is further removed from the direct control of the people than is any other official of this Government. The framers of the Constitution, recognizing this, provided a special kind of punishment; namely, that he should be tried by the Senate of the United States, after having been impeached by the House of Representatives, and if convicted a certain penalty should attach. That penalty is of the most drastic kind that could be applied to a public official of this Republic. If Judge English is guilty, that punishment should be applied to him, not because he is Judge English, but for the purpose of warning other men holding the position of Federal judge, that although they are removed from the direct control of the people, in order that the judiciary may be independent, notwithstanding the wheels

of justice will grind exceedingly sure when once they are started against a judge who has been faithless to his trust. Therefore I think this case should be proceeded with.

If this man is guilty, the punishment should be meted out. He should not be allowed merely by resigning to return to the practice of the law, to be eligible to any other office that he might seek or be offered, but he should be given this punishment and those privileges be prohibited to him. If he is not guilty, then he should be vindicated and be permitted to continue in office, that other judges may know that when they are attacked, if falsely, they can depend upon vindication and will not need to resign. I think it would be a serious mistake for the Senate to dismiss these proceedings. It is no discourtesy to the House and would be carrying forward the cause of justice.

Mr. NORRIS. Mr. President——

The VICE PRESIDENT. Without objection, the Senator from Nebraska will proceed.

Mr. NORRIS. Mr. President, while on principle I agree most fully with the two Senators who have just addressed the Senate, I shall, nevertheless, support the order that has been offered, and I believe that the Senate ought to adopt it. The Senate sits as a court and a jury, while the House of Representatives represents the prosecution. I feel that we ought to follow the House in this matter, and that if it decides, as it has decided, that it does not further desire to prosecute, the matter ought to be dropped and necessarily dismissed.

I can not, however, close my eyes to the fact that the reason for the action taken by the House of Representatives is already disclosed in the record of the court, and that is because Judge English is no longer a judge; he has resigned; and the House of Representatives is proposing to dismiss the case because of that resignation.

I do not believe the House ought to take that course. I realize that in criminal proceedings the prosecuting officer often asks the court to dismiss a case, and that usually when such a request is made it is granted as a matter of course. He does that, however, because he has since the indictment ascertained that, for one reason or another, sufficient in his judgment, no conviction can be had. However, to dismiss the pending case because the judge has resigned is similar to the position in which the prosecuting officer would be if he proposed to dismiss a charge of larceny because the defendant had returned the stolen property.

It seems to me that what the Senator from South Carolina [Mr. BLEASE] and the Senator from Washington [Mr. DILL] have stated, so far as the principle involved is concerned, is correct, although I do not myself see how the Senate can do anything except to adopt the order, because should we not do so, we should be left in the position of there being no prosecuting officials present to take charge of the prosecution, and it would necessarily fail under circumstances such as that.

Mr. REED of Pennsylvania. Mr. President——

The VICE PRESIDENT. Without objection, the Senator from Pennsylvania will proceed.

Mr. REED of Pennsylvania. Mr. President, if this were a question on which our free discretion were open, I believe I should vote to continue with the trial. If the charges against Judge English should be sustained by the evidence, he would richly deserve the judgment of attainder which the Constitution would enable us to put upon him; but the House of Representatives does not submit the matter to our judgment; they do not suggest that we dismiss the case; they request it. In view of the fact that the coordinate House of Congress requests us to dismiss the proceedings which were instituted by them, it seems to me we are in all comity bound to accede without question to their request.

Mr. REED of Missouri. Mr. President, so that it may appear in the RECORD, I desire to say just a word, with the unanimous consent of my colleagues.

The VICE PRESIDENT. Without objection, the Senator from Missouri will proceed.

Mr. REED of Missouri. Mr. President, I agree with everything that has been said this morning so far as the responsibility of the Senate is concerned and so far as our duty properly to try and solemnly to adjudge the guilt or innocence of any judge presented to the bar of the Senate for trial.

The regrettable part of the situation is that this judge, after a long preliminary investigation by the House of Representatives, was deemed to have been guilty of such misconduct that the House proceeded to the exhibition of articles of impeachment; these solemn charges were laid before the Senate, and it is not now the position of the House of Representatives that the charges were based upon a mistake as to the facts, that they have since discovered the accused to be innocent; on the contrary, the statement appears of record that the request for the dismissal of the proceedings here is brought about by the resignation of Judge English.

I want to be among the last of those who would in any way endeavor to embarrass the House of Representatives. I have the utmost respect for that great body; and I think I know the motive that impelled the House to take the action it has taken, and that is that this trial would involve the expenditure of a vast amount of time by both the House of Representatives and the Senate, but especially the latter; that because of the hardship of a long trial the House has felt, in view of the resignation of Judge English, it is warranted in seeking to avoid the labor of the trial and warranted also in seeking to relieve the Senate of a very arduous task. The House of Representatives has settled that question, and their managers come here now asking a dismissal. I have such deference for the opinion of the House that since as the prosecutor it sees fit to take this action, I have no word of criticism whatever; but I do say that it is a lamentable thing, first, that it ever should be necessary to bring any grave charges against a member of the Federal judiciary—and these charges have been very grave, indeed. If any one of several of the charges was true, then Judge English was guilty of conduct not only disgraceful to the bench but a blot upon our entire jurisprudence; a shame upon our civilization. If it has come to this, that men who wear the ermine, which should always be kept spotless, are guilty of acts of tyranny and guilty of positive corruption in office, then, indeed, we have reached a sad state in this Republic, where, notwithstanding charges of malfeasance and misfeasance have often been made and frequently been proven with reference to ordinary officers of the State, it has been seldom, indeed, that the leprosy of corruption has touched the occupant of the bench.

This man is solemnly charged with grave acts of malfeasance and misfeasance in office. We are not told now that those charges were filed in a mistaken way and because of a misapprehension of fact, but we are asked to dismiss the charges because the defendant has resigned. By resigning he escapes the greater part of the punishment the law commands, for if impeachment is sustained, then two things follow: One, a deprivation of office; the other, a bar to any further holding of an office of either honor or trust. So that here to-day we are required to allow one who has violated his duties under the Constitution of the United States to escape by his own voluntary act the greater part of his punishment.

It may be a little aside; but, from statements that have come to me, I believe it to be the fact that when the effort was first made to bring to the attention of the House of Representatives the misconduct of this judge, far-reaching influences were employed to prevent the action which the House afterwards took, and that some of these influences have continued actively. It is to the credit of the House of Representatives that such influences in no manner reached it, and that it took the action that it did initially and that it has pursued consistently throughout, regardless of any such influences; but the course we are asked to take is unpleasant to me in view of the tremendous effort to save this man from indictment by the House, and in view of the fact that he pursued an attitude of absolute defiance after he had been so charged. He appeared here with his array of attorneys, pleaded not guilty, and asked for time to prepare for his defense. He thus secured the adjournment of the Senate over the summer months. In view of all that, I regard it as an unfortunate thing that this trial could not be proceeded with; and yet I recognize the fact that to tie up the House of Representatives, at least in part, and to tie up the Senate completely, for weeks, would be almost in the nature of a public disaster, and that perhaps warrants this action.

I make the suggestion now that there ought to be devised at once some system of procedure in the Senate which would enable the ascertainment of the facts for the Senate without the necessity of the Senate sitting here as a body, listening for weeks to the oral testimony of witnesses delivered in its presence; because, if I have been correctly informed, other impeachment proceedings will be necessary in this country—a statement that I regret to make, but one that I believe is justified. So I am making that suggestion to the Senate now. I am going to vote for this proposition out of respect for the judgment of the House of Representatives, which appears here by this dignified body of men who I know are as much interested in the welfare of the country as the Senate.

Mr. BRUCE. Mr. President——

The VICE PRESIDENT. The Senator from Maryland will proceed, without objection.

Mr. BRUCE. I, too, can not allow this matter to proceed to a vote without explaining my position with respect to it.

The Federal Constitution says that in cases of this kind the House of Representatives shall have the sole power of impeachment. It also says that the Senate of the United States shall

have the sole power to try all impeachments. In view of that language, it seems to me that in this case no choice is left to us. Exercising its best discretion—which I do not for a moment question—the House of Representatives has asked us to discontinue the pending impeachment. I propose to unite in the vote of discontinuance; but, at the same time, I am sure that I will be allowed the privilege of saying that I deeply regret the conclusion that the House of Representatives has reached.

It is one of the beautiful sayings of Shakespeare that lilies that fester smell far worse than weeds. So corruption or moral depravity in a judge is a thing of an even deeper dye than corruption or moral depravity in an ordinary individual. We have a right to expect of him lofty standards of conduct such as we have no right to expect of any other human being, except, perhaps, the priest. Just as the policeman is the braver for his uniform, just as the soldier is the braver for his sword, and just as the priest is the purer for his cassock, so we have the right to expect that the judge shall be stainlessly honorable and upright because of his ermine.

The old English poet affirms:

> Unless above himself he can
> Erect himself, how poor a thing is man!

One of the finest features of this mortal life of ours is the fact that as moral responsibility increases so, as a rule, human ability to meet it increases.

In the whole history of this country, as I remember at this moment, only five Federal judges have ever been impeached for misconduct, and only two of them, I believe, were convicted of misconduct, and one of them, at that, a man who could hardly be said to be mentally responsible. Yet here comes along this judge, who, I have always felt, was guilty—though I was prepared to maintain an open mind in his case—because of the detailed and minute specifications of misconduct on his part drawn up by the House of Representatives with such extraordinary particularity, and just at the moment when retribution is about to be meted out to him escapes by resigning his office.

I regret that we were not permitted to proceed to final judgment, to disregard this resignation—which was in itself, of course, under the circumstances, a confession of guilt—and to enter up an order of removal, and by its terms forever to disqualify an unjust and faithless judge from holding any office of profit or trust or honor under the Constitution of the United States. He has brought disgrace on one high office. Our action should have assumed such a form that he could never have an opportunity to bring disgrace on another.

I have felt—just as the Members of the Senate who preceded me feel—that I would be false to myself, false to my public duty, and false to the honor and dignity of this body of which I am a Member were I not to say at least as much as I have said.

Mr. COPELAND. Mr. President——

The VICE PRESIDENT. Without objection, the Senator from New York will proceed.

Mr. COPELAND. For the reasons so well stated by the Senator from Nebraska [Mr. NORRIS] I shall vote to sustain the order. I shall do so believing that this action of the Congress is a mistake. I regret that the charges have been withdrawn. In justice to society and in justice to Judge English, too, the trial should proceed. But, in view of the circumstances, I see that there is nothing else to do, so far as I am concerned, except to vote to sustain the order.

Mr. WHEELER. Mr. President——

The VICE PRESIDENT. Without objection, the Senator from Montana will proceed.

Mr. WHEELER. I regret exceedingly to have to take issue with the House of Representatives with reference to the dismissal of this case; and, likewise, I regret that I am compelled to take issue with some of those who have preceded me in saying that we should vote for this order.

Some have said that we should vote for the dismissal of the case because of the cost that it would involve to the Government of the United States and some because of the inconvenience that it would cause the Members of the Senate and of the House of Representatives. Permit me, however, to remind the Members of this body that the Constitution of the United States was not written for the convenience of either the House of Representatives or the Senate of the United States, nor was it written with the idea that in a case of this kind the Government should be so penurious that it would not spend the money either to condemn or to vindicate a man charged with these serious crimes.

Some one has suggested that because of the fact that the House of Representatives is the prosecutor, the Senate, acting as a judge, is compelled to vote for an order of this kind. With that I entirely disagree. I doubt whether there is any Member of the Senate who has been a prosecuting lawyer who would say if he went into court prosecuting a public officer charged with embezzlement or dereliction in his public duties, and asked a court of law to dismiss the case because of the fact that the officer had resigned, that the trial judge would be either justified or permitted, under his oath of office, to dismiss the case under those circumstances. The trial judge has a duty to perform, and that is to see that justice is performed in his court, regardless of what the prosecuting attorney may request him to do.

So, as I view the matter, we are here sitting as a trial judge, and it is our duty, regardless of what the House may do in this matter, to say that, as far as we are concerned, we propose that the trial shall go on until either the judge has been vindicated or has been convicted, in accordance with the facts.

I say to the Members of the Senate that they will hold themselves up to the ridicule of the country if they do not take that course. It seems to me that it is assuming an extremely weak position for Members of the Senate of the United States to say, "We are not going to try this judge because he has resigned," or, "We are not going to go on because of the fact that Members of the House of Representatives—the prosecuting attorney, if you please—have requested that the case be dismissed."

If the House came before this body and said, "We request that the case be dismissed because there is not sufficient evidence," I would, of course, be perfectly willing and feel that I was justified, and that it was my duty then to vote for a dismissal, but when they come before us and neither say he is guilty or that he is innocent, and then ask us to dismiss the case because he has resigned, I say to the Members of this distinguished body that we are not doing justice, as I see it, in the case.

Mr. KING. Mr. President——

The VICE PRESIDENT. The Senator from Utah may proceed without objection.

Mr. KING. Mr. President, notwithstanding the position taken by some Senators, and the reasons assigned by them for their opposition to the proposal of the Senator from Kansas to dismiss the impeachment proceedings against Judge English, I shall without hesitation support the recommendation of the committee representing the House, and also the motion for dismissal submitted by the Senator from Kansas. The House of Representatives adopted articles of impeachment, which were subsequently presented to the Senate. The information presented to the House undoubtedly warranted the action taken in respect to Judge English. He was, when the articles of impeachment were drawn and when they were presented to the Senate, a Federal judge. He is a judge no longer. One of the objects of the impeachment proceedings—indeed, the principal object—was to secure his removal from office.

He no longer occupies a judicial position; therefore the paramount purpose has been accomplished. His resignation in the face of impeachment proceedings will be construed by many as a confession of the truth of the charges. Be that as it may, his punishment has been great. He has been driven from office, and there is no possibility of his ever again being placed in any position of trust or responsibility in State or Nation.

The House of Representatives upon mature deliberation has resolved that impeachment proceedings be dismissed. The Members of the House of Representatives have as much concern in the preservation of the honor of our Government and the integrity of the courts as have Senators. Under the Constitution of the United States, articles of impeachment are adopted by the House and it is the instrument for the prosecution of officials charged with malfeasance, high crimes, and misdemeanors. The House is as jealous of its good name as is the Senate, and it will not deal lightly with matters affecting the honor and dignity of our country. I might say that the House has a double responsibility in connection with impeachment proceedings. It not only impeaches, but after articles of impeachment have been presented to the Senate, it prepares the case and presents it to the Senate. And it also possesses the authority to determine whether it will further continue the impeachment proceedings before the Senate.

So, I repeat, it has a great responsibility in moving a dismissal of the impeachment proceedings against Judge English. It has undoubtedly measured up to the responsibility resting upon it, and has taken action after the most careful and conscientious consideration of all questions involved.

If the Senate, in the face of the action of the House of Representatives should refuse to adopt its recommendation and dismiss the proceedings, the Senate would be confronted with a rather novel situation. Could it proceed under the articles of impeachment and try Judge English with the House

refusing to take further cognizance of the case? Could the Senate appoint some agency, either within or without the Senate, to secure witnesses and present testimony before the Senate?

As I now recall, there was one case involving the impeachment of a Federal judge, where, after his resignation, pending trial by the Senate, nothing whatever was done by either the House or the Senate. The House, as I recall, treated the resignation as ipso facto terminating the case, and the Senate seemed to proceed upon the same theory.

The Senator from Montana has drawn a parallel between the duties of prosecuting officers and the House of Representatives. He likens the Senate to a judge before whom a case is pending and the House of Representatives to the prosecuting attorney who perhaps has drawn the indictment and is charged with the duty of prosecuting the case. As I understood him, his contention was that the judge was not bound by the recommendation of the prosecuting attorney that an order of dismissal of the indictment be entered. There have been a few cases where judges have declined, at least for the moment, to dismiss indictments upon motion of prosecuting officers. Such cases are rare, and I think in some jurisdictions the judge would not be warranted in denying the application of the prosecuting attorney to dismiss criminal charges.

While there may be some analogy between cases suggested by the Senator from Montana and the case now before us, I feel sure that the refusal of a judge to dismiss an indictment upon motion of the district attorney would not be a precedent to guide the Senate.

Mr. President, the managers on the part of the House acting under instructions from that body, are here before this Court of Impeachment. They advise us that the House has passed a resolution calling for the dismissal of all proceedings against Judge English. It seems to me our course is clear. A proper regard for that great legislative branch of our Government and for its wishes in this matter calls for prompt action upon the part of the Senate, such action to be in consonance with the wishes of the House of Representatives.

Mr. FLETCHER. Mr. President——

The VICE PRESIDENT. Without objection, the Senator from Florida may proceed.

Mr. FLETCHER. I expect to vote for this order. I want it distinctly understood, however, that it shall not be regarded as a precedent which will bind the Senate hereafter in all cases of a similar character. I shall vote for it with the understanding that each case is to stand upon its own merits, as it may be presented here, without conceding that this shall establish a precedent, and that hereafter whenever an impeachment of a Federal judge is presented to the Senate, if he resigns during those proceedings, that will end the matter.

With that understanding, that each case stands upon its own merits, in view of the action taken by the House in this particular case, which I understand is based upon their consideration of all the facts and circumstances in connection with the matter, I propose to vote for the order.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Without objection, the Senator from Idaho may proceed.

Mr. BORAH. Judge English has resigned, and that makes it impossible for us to remove him should we find him guilty. The only judgment which we could enter would be one preventing his holding any office of honor or trust under the Federal Government.

I should not want to sit here for a number of weeks and at the public expense to arrive at a judgment upon that rather fantastical proposition. It is hardly possible that Judge English will ever hold another office under this Government, resigning under the circumstances under which he did resign, and considering his age. I think the House arrived at a very proper conclusion. I am thoroughly in favor of the recommendation which they have made. It will give us much more time to devote to cleaning our own house.

The VICE PRESIDENT. The question is upon agreeing to the order presented by the Senator from Kansas, that "the impeachment proceedings against George W. English, late a judge of the District Court of the United States for the Eastern District of Illinois be, and the same are duly, dismissed."

Mr. JONES of Washington. Mr. President, I ask for the yeas and nays.

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

Mr. BRATTON (when his name was called). I have a general pair with the junior Senator from Indiana [Mr. ROBINSON], but I understand that pairs do not obtain when the Senate is sitting as a court of impeachment. I therefore feel at liberty to vote. I vote "yea."

Mr. CURTIS (when his name was called). I have a pair with the senior Senator from Arkansas [Mr. ROBINSON], but I understand that pairs are not followed in a case of this kind, and therefore I vote. I vote "yea."

Mr. MOSES (when his name was called). Has the junior Senator from Louisiana [Mr. BROUSSARD] voted?

The VICE PRESIDENT. That Senator has not voted.

Mr. MOSES. I have a general pair with the junior Senator from Louisiana, and in his absence I withhold my vote. If at liberty to vote, I would vote "yea."

The roll call was concluded.

Mr. WALSH of Montana. I desire to announce that the senior Senator from Virginia [Mr. SWANSON] is necessarily detained from the Senate on official business.

The result was announced—yeas 70, nays 9, as follows:

YEAS—70

| | | | |
|---|---|---|---|
| Bayard | Gillett | Lenroot | Simmons |
| Bingham | Glass | McMaster | Smith |
| Borah | Goff | McNary | Smoot |
| Bratton | Gooding | Mayfield | Stanfield |
| Bruce | Gould | Metcalf | Steck |
| Cameron | Greene | Neely | Stephens |
| Capper | Hale | Norris | Stewart |
| Copeland | Harreld | Oddie | Tyson |
| Curtis | Harris | Overman | Underwood |
| Dale | Harrison | Pepper | Wadsworth |
| Deneen | Hawes | Phipps | Walsh, Mass. |
| Edge | Heflin | Ransdell | Walsh, Mont. |
| Edwards | Howell | Reed, Mo. | Warren |
| Ferris | Johnson | Reed, Pa. | Watson |
| Fess | Jones, N. Mex. | Sackett | Weller |
| Fletcher | Kendrick | Schall | Willis |
| Frazier | Keyes | Sheppard | |
| George | King | Shortridge | |

NAYS—9

| | | | |
|---|---|---|---|
| Ashurst | Dill | McKellar | Trammell |
| Blease | Jones, Wash. | Shipstead | Wheeler |
| Couzens | | | |

NOT VOTING—16

| | | | |
|---|---|---|---|
| Broussard | Gerry | Moses | Pittman |
| Caraway | La Follette | Norbeck | Robinson, Ark. |
| du Pont | McLean | Nye | Robinson, Ind. |
| Ernst | Means | Pine | Swanson |

So Mr. CURTIS's order was agreed to.

Mr. CURTIS. Mr. President, I offer the following order.

The order was read and agreed to, as follows:

*Ordered*, That the Secretary of the Senate be directed to communicate the foregoing order to the House of Representatives.

Mr. CURTIS. Mr. President, I move that the Senate, sitting as a court for the consideration of the articles of impeachment presented against George W. English, do now adjourn sine die.

The motion was agreed to.

The VICE PRESIDENT. The Senate resumes legislative business. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which is House bill 7555, the maternity bill. The Senator from Illinois [Mr. DENEEN] is entitled to the floor.

## MUSCLE SHOALS

Mr. DENEEN resumed and concluded his speech, which is, entire, as follows:

Mr. President, Muscle Shoals is the term which has been applied to a reach of the Tennessee River extending about 35 miles upstream from the town of Sheffield, Ala. In this section of the river there is a natural fall of about 130 feet.

The shoals section of the Tennessee River has been before Congress for more than 100 years. Attention was called to it by President Monroe, on the suggestion of John C. Calhoun, in 1824, and Congress later granted 400,000 acres of land to the State of Alabama to produce a fund to pay for the canalization of that part of the Tennessee River.

In 1872 Congress considered the canalization of the Muscle Shoals, and between 1872, when the measure was proposed, and 1890, when the canals were completed, the Government expended upon them $3,200,000. Navigation was secured for about eight months each year around and through the shoals by building two canals and using a part of the river between.

Nitrogen fixation was linked to water power and navigation in the Tennessee River in 1911–12 by an effort made by the American Cyanamid Co. to enter into partnership with the United States for development of power in the Muscle Shoals stretch of the river and the erection of a cyanamide plant in the vicinity of the site of United States Nitrate Plant No. 2. The bill looking toward the establishment of this partnership passed both Houses of Congress and was vetoed by President Taft.

In 1916 the project developed by the Army engineers for the combined development of power and navigation at Muscle Shoals was submitted to Congress and published in House Document 1263, Sixty-fourth Congress, first session. This project contemplated a Lock and Dam No. 1, just above the Florence Bridge, for navigation only, and the construction of

two power and navigation dams; Dam No. 2 at the foot of Muscle Shoals and Dam No. 3 at the head of Muscle Shoals. The total cost of the project exclusive of power houses and power generating and transmission equipment, which were to be constructed by the power company at Dams 2 and 3, was then estimated at $19,000,000, of which $3,000,000 was to be paid by the Muscle Shoals Hydroelectric Power Co. and the remainder of $16,000,000 by the United States. This project was not acted upon by Congress.

Section 124 of the national defense act of 1916 gave authority to the President to construct, maintain, and operate at or on any site or sites which he might designate dams, locks, improvements to navigation, power houses and other plants and equipment, or other means than water power, as in his judgment was the best and cheapest, necessary, or convenient for the generation of electrical or other power and for the production of nitrates or other products needed for munitions of war and useful in the manufacture of fertilizers and other useful products. The sum of $20,000,000 was appropriated to enable the President to carry out the purposes provided for therein.

NITRATE PLANT NO. 1

Pursuant to such authority the President decided upon Sheffield, Ala., as the location of Nitrate Plant No. 1. This plant was built at a cost stated to have been $12,887,441.31.

NITRATE PLANT NO. 2

On December 4, 1917, the War Department contracted with the American Cyanamid Co. to design and construct at Muscle Shoals Nitrate Plant No. 2, having a capacity of 40,000 tons of nitrogen per year, and the plant was completed in October, 1918, at a cost stated as $67,555,355.09. Plant No. 1 was designed to use the synthetic process and Plant No. 2 the cyanamide process of fixing nitrogen.

WILSON DAM AUTHORIZED

On November 16, 1917, an allotment of $500,000 was made from funds appropriated by the national defense act for acquiring the necessary land and undertaking the construction of Lock and Dam No. 2 at Muscle Shoals. On February 23, 1918, the President authorized an additional allotment from the same source of $12,630,000 for Lock and Dam No. 2. Further appropriations for Dam No. 2 have been made from time to time by Congress sufficient to complete it with eight generating units installed and with corresponding step-up transformer capacity. Lock and Dam No. 1 of the project reported in 1916 has been completed under authority contained in the rivers and harbors act approved March 3, 1925, at a cost of $980,000.

In the project of 1916 Dam No. 3 was to be located 15 miles above Dam No. 2. It was to afford navigation for 65 miles upstream and give a 40-foot head for the development of power. Congress has not authorized the construction of Dam No. 3.

As a part of Nitrate Plant No. 2 a steam-electric power plant of 76,000 horsepower capacity was constructed at a cost of about $12,000,000. The plant was so built that at a cost of about $1,000,000 it can be increased to 111,000 horsepower.

At the same time, under a contract with the Alabama Power Co., an extension of about 40,000 horsepower was made to an existing steam-electric station owned by the company on the Warrior River 80 miles from Muscle Shoals. A high-tension transmission line also was constructed, connecting this steam-electric station at Gorgas, Ala., with Nitrate Plant No. 2. The extension to the Gorgas plant and the transmission line cost $4,770,974.47; they were later sold to the Alabama Power Co. under contract for $3,472,487.25.

There has been spent on Dam No. 2 (Wilson Dam) to November 1, 1926, $44,724,192. The Wilson Dam and power plant are now in operation and the power is being sold to the Alabama Power Co. under a temporary arrangement, cancelable on 30 days' notice. A transformer station is being installed, and when this is completed the cost of Dam No. 2 (Wilson Dam), with eight generating units, will be, in round numbers, $46,900,000.

The price obtained for the power sold from the Wilson Dam power plant averages slightly over 2 mills per kilowatt hour. The gross receipts from the sales for the calendar year will be approximately $860,000. The plant is being operated under an appropriation made by Congress for that purpose, and the maintenance and operating expenses for the calendar year will be about $220,000, making the net revenue from the water power about $640,000.

The steam-electric plant at Nitrate Plant No. 2 is under a short-term lease to the Alabama Power Co. for $120,000 per annum flat rental and a 2 mill per kilowatt-hour payment to the Government for all power produced at the plant by the company. The company bears all operating, maintenance, and insurance costs.

The net revenue to the Government from the Muscle Shoals power plants for the calendar year 1926 will be about $800,000.

GOVERNMENT PROPERTIES AT MUSCLE SHOALS

The Government properties at Muscle Shoals consists of two classes:

First. Power properties, namely, Dam No. 2 (Wilson Dam), with 260,000 horsepower of installed equipment; and the steam-electric plant at Nitrate Plant No. 2, with 76,000 horsepower of installed equipment.

Second. Nitrate plants, namely, Nitrate Plant No. 1, being 1,900 acres of land on which are located an industrial village and the manufacturing plant and a comparatively small steam-electric power plant; Nitrate Plant No. 2, being 2,300 acres of land on which are located a complete manufacturing plant using the cyanamide process and an industrial village. The Waco limestone quarry, at Waco, Ala., is a part of Nitrate Plant No. 2.

THE MUSCLE SHOALS INQUIRY

On March 6, 1925, the President appointed the Muscle Shoals Inquiry of five members to make investigation, to aid in assembling reliable information as to the best, cheapest, and most available means for the production of nitrates and other products for munitions of war and useful in the manufacture of fertilizers and other useful products, by water power or such other power as may be best and cheapest to use, and to report upon the most practicable method or methods of utilizing to the best advantage and for the specific purpose mentioned in the national defense act, the facilities comprising the nitrate plants owned by the United States and located at Muscle Shoals, Ala. The inquiry submitted two reports, a majority report of three members and a minority report of two members. The majority recommended that the properties be considered as a unit and that the power and nitrate properties be leased as a unit and not as separate entities. The majority specified certain conditions deemed by it essential in the lease and recommended that if a lease could not be negotiated on such terms the properties be operated by the Government. The minority held that a private lease was essential; that the power lease should be separated from the fertilizer or other chemical leases.

THE PRESIDENT'S MESSAGE

Discussing the question in his message in December, 1925, President Coolidge expressed the view that Congress should dispose of the Muscle Shoals properties and urged that the properties be developed for the production of nitrates primarily, and incidentally for power purposes, in order to serve defensive, agricultural, and industrial purposes. The President stressed the importance of disposing of the properties in a manner to serve these purposes, and suggested the creation of a special joint committee to receive bids and negotiate a contract for private operation and to recommend suitable legislation authorizing the negotiation of a lease or leases.

HOUSE CONCURRENT RESOLUTION 4

A concurrent resolution was proposed in the House of Representatives on January 4, 1926. It came up for consideration in the Senate on March 1, 1926, and after several days' discussion was amended, authorizing the negotiation by the joint committee of one or more leases, and directing the committee to incorporate in the lease suitable provision for the distribution of surplus power in the communities and States to which it could be economically transmitted. It was approved by the House, and the joint committee was authorized on March 13, 1926, to consider bids for private operation and report not later than April 26, 1926.

The concurrent resolution is as follows:

*Resolved by the House of Representatives (the Senate concurring)*, That a joint committee, to be known as the joint committee on Muscle Shoals, is hereby established, to be composed of three members to be appointed by the President of the Senate from the Committee on Agriculture and Forestry and three members to be appointed by the Speaker of the House of Representatives from the Committee on Military Affairs.

The committee is authorized and directed to conduct negotiations for a lease or leases (but no lease or leases shall be recommended which do not guarantee and safeguard the production of nitrates and other fertilizer ingredients, mixed or unmixed, primarily as hereinafter provided) of the nitrate and power properties of the United States at Muscle Shoals, Ala., including the quarry properties at Waco, Ala., for the production of nitrates primarily and incidentally for power purposes, such power to be equitably distributed between the communities and States to which it may be properly transported, in order to serve national defense, agriculture, and industrial purposes, and upon terms which, so far as possible, shall provide benefits to the Government and to agriculture equal to or greater than those set forth in H. R. 518, Sixty-eighth Congress, first session, except that the lease or leases shall be for a period not to exceed 50 years.

Said committee shall have leave to report its findings and recommendations, together with a bill or joint resolution, for the purpose of carrying them into effect, which bill or joint resolution shall, in the House, have the status that is provided for measures enumerated in clause 56 of Rule XI: *Provided*, That the committee shall report to Congress not later than April 26, 1926: *And provided further*, That the committee in making its report shall file for the information of the Senate and the House of Representatives a true copy of all proposals submitted to it in the conduct of such negotiations.

THE BID OF HENRY FORD

Concurrent Resolution No. 4 states that the terms of any lease or leases shall provide so far as possible benefits to the Government and to agriculture equal to or greater than those set forth in H. R. 518, Sixty-eighth Congress, first session, except that the lease or leases shall be for a period not exceeding 50 years. This refers to what is known as the Henry Ford bid, and on that account it is necessary to set out the main features of the bid. They are as follows:

In June, 1921, Mr. Henry Ford submitted a bid for the properties of the United States at Muscle Shoals. The bid was transmitted to Congress by the Secretary of War in February, 1922. Mr. Ford's offer provided for the sale to him for the sum of $5,000,000 of the following property:

Nitrate Plant No. 1 and Nitrate Plant No. 2, including the Waco quarry, the 60,000-kilowatt steam-electric plant, and the extension to the Gorgas steam-electric plant and transmission line to Muscle Shoals.

Mr. Ford proposed to lease for a term of 100 years Dam No. 2 and its power house and all its hydroelectric and operating appurtenances, except the locks, together with all lands and buildings owned or to be acquired by the United States; and also Dam No. 3, its power house and all its hydroelectric and operating appurtenances except the locks from the date when structures and equipment of the capacity of 80,000 horsepower were constructed and installed ready for service to the end of the 100-year lease term. The rentals for the leased property were to be as follows:

For the lease of Dam No. 2 Mr. Ford proposed to pay to the United States as an annual rental 4 per cent of the actual cost of acquiring the land and flowage rights and of building the locks, dam, and power-house facilities, but not including expenditures and obligations incurred prior to the approval of his proposal by Congress (at that time the expenditures for Dam No. 2 had amounted to $16,506,000); payable annually at the end of each lease year, except that during and for the first six years of the lease period the rental should be in the following amounts and payable at the following times, to wit: $200,000 one year from the date when 100,000 horsepower was installed and ready for service; and thereafter $200,000 annually at the end of each year for five years.

Mr. Ford agreed further to pay to the United States during the period of the lease of Dam No. 2 $35,000 annually, in installments quarterly in advance, for repairs and maintenance and operation of Dam No. 2, its gates and locks.

For the lease of Dam No. 3 he proposed to pay to the United States an annual rental of 4 per cent of the actual cost to construct the lock, dam, and power-house facilities, payable annually at the end of each year, except that during and for the first three years of the lease period the rental should be in the following amounts and payable at the following times: $160,000 one year from the date when 80,000 horsepower was installed and ready for service; and thereafter $160,000 annually each year for two years. He agreed further to pay to the United States for the period of the lease of Dam No. 3, $40,000 annually in installments quarterly in advance for the repair, maintenance, and operation of the dam, its gates, and locks. Mr. Ford agreed to manufacture nitrogen for commercial fertilizers, mixed or unmixed, and with or without filler, according to the demand, at Nitrate Plant No. 2 or its equivalent, or at such other plant or plants adjacent or near thereto as he might construct, using the most economical source of power available. The annual production of these fertilizers was to have nitrogen content of at least 40,000 tons of fixed nitrogen, which is the present annual capacity of Nitrate Plant No. 2. He agreed that the maximum net profit made in the manufacture and sale of fertilizer products should not exceed 8 per cent of the fair actual annual cost of production thereof.

The bill embodying Mr. Ford's offer was passed by the House of Representatives in March, 1924, but was not acted upon by the Senate. Mr. Ford withdrew his offer in October, 1924.

Since the bid of Mr. Ford certain properties included in his bid have been disposed of as follows:

| | |
|---|---|
| Transferred to Engineer Department and utilized in the construction of: | |
| Wilson Dam | $2,142,103.12 |
| Fort Benning | 370,016.52 |
| Transferred to: | |
| Department of Agriculture | $330,075.50 |
| U. S. Military Academy | 37,750.69 |
| Quartermaster Department, Camp Jesup | 75,928.50 |
| Rock Island Arsenal | 12,340.00 |
| Frankfort Arsenal | 1,724.25 |
| Picatinny Arsenal | 35,724.88 |
| Chief of Ordnance, Washington | 200.00 |
| Platinum for use at Plants 1 and 2 | 735,000.00 |
| Total | 3,740,863.36 |
| Sold: | |
| Gorgas steam plant to Alabama Power Co. | 3,472,487.25 |
| Surplus and condemned property sold (temporary buildings, salvage wood, motor cycles, motor vehicles, desks, etc.) | 30,188.75 |
| Cots | 9,094.05 |
| Blankets | 9,430.37 |
| Scrap iron (1,500 tons). | |
| Total | 3,514,775.40 |

In addition the following revenues have been received by the Government, covering facilities leased to private companies to August 31, 1926:

| | |
|---|---|
| Alabama Power Co.: | |
| United States Nitrate Plant No. 2, 60,000-kilowatt steam plant | $1,080,423.99 |
| Gorgas 30,000-kilowatt steam plant | 338,666.41 |
| 1,000-kilowatt substation at Waco quarry | 5,550.00 |
| Foster & Creighton Co. et al., railway track leading into Waco quarry | 900.00 |
| Lance Willmarth, approximately 320 acres of land at Waco quarry | 1,530.00 |
| | 1,427,070.40 |
| Inventory: Estimated value of movable property remaining on hand | 500,000.00 |
| Total of property disposed of as above stated | 9,202,707.18 |

The other property included in the bid which has not been disposed of was—

United States Nitrate Plant No. 1—1,800 acres land, 85 bungalows, school building, officers' clubhouse, and ice plant.

United States Nitrate Plant No. 2—1,906 acres of land, 85-room hotel, and ice plant.

Waco quarry—460 acres land, railroad, fences, sewer, water system, 14 dwellings, crusher buildings, machinery, electrical and movable operating equipment.

THE WORK OF THE JOINT COMMITTEE

The joint committee gave wide publicity to its authority and solicited bids from producers of electrical energy and those engaged in the manufacture of fertilizing material and from those who have indicated heretofore any interest in leasing the properties. Nine bids were received.

The offer of Lloyd H. Smith did not provide for the production of any nitrates.

The offers of James H. Levering and of C. E. Graff, of the American Nitrogen Products Co., proposed to lease but a portion of the properties.

The bids of Frederick T. Hepburn, F. E. Castleberry, and Elon H. Hooker provided practically for the operation by them as agents for the Government.

The bid of Birmingham Real Estate & Development Co. was received too late for consideration.

The Union Carbide Co. submitted a definite recommendation and two proposals. It recommended the acceptance of the Air Nitrates bid as being preferable to its own. In its bid it required that the Government protect it in the use of all patents and a limitation of 20,000 tons was placed on the amount of fixed nitrogen to be produced.

The foregoing bids were considered and eliminated by the committee because they failed to comply with the terms of Concurrent Resolution 4.

The two bids which were given consideration by the committee were:

(1) That of the Air Nitrates Corporation.

(2) That of the Muscle Shoals Power Distributing Co. and the Muscle Shoals Fertilizer Co., referred to throughout the hearings as the Associated Powers Co.

The joint committee invited the Secretaries of War, Agriculture, and Interior—members of the Federal Power Commission—and the Secretary of Commerce to confer with it and requested their aid in securing the services of technical experts and advisers to assist the committee in its work. They suggested to the joint committee the organization of an advisory board and recommended the following persons, who have assisted the committee:

Brig. Gen. Edgar Jadwin, Assistant Chief of Engineers (now Chief of Engineers), United States Army;

Mr. Paul S. Clapp, representative Department of Commerce;

Dr. S. C. Lind, associate director, Fixed Nitrogen Research Laboratory, Department of Agriculture;

Dr. F. G. Cottrell, director of the Fixed Nitrogen Research Laboratory, was the representative of the Department of Agriculture until he left for Europe on April 16; and

Mr. C. A. Bissell, Bureau of Reclamation, Department of the Interior.

In addition to the foregoing the following gentlemen assisted materially in the studies:

Lieut. Col. George R. Spalding, Corps of Engineers;

Maj. Max. C. Tyler, Corps of Engineers;

Maj. Philip B. Fleming, Corps of Engineers;

Mr. F. A. Ernst, of the Fixed Nitrogen Research Laboratory of the Department of Agriculture;

Maj. James H. Burns, Ordnance Department, United States Army;

Maj. Glen C. Edgerton, Chief Engineer, Federal Power Commission; and

Dr. P. E. Howard, Ordnance Department, United States Army.

NEGOTIATION WITH BIDDERS

Your committee negotiated with the bidders and secured changes in their bids to safeguard the production of fertilizer and to increase the revenue to the Government. In the case of the Muscle Shoals Fertilizer Co. and the Muscle Shoals Power Distribution Co. an increase in capital investment for the fertilizer business from $10,000,000 to $20,000,000 was secured, and the bidder agreed to itself finance all fertilizer operations and to increase materially the production of fertilizer. The provision for payment was changed so that all payments would be net to the Government instead of subject to rebate for power used in the fertilizer business. Payments for increased power due to construction of any up-river storage projects were secured to be paid when benefits accrued at Dam No. 2 and at Dam No. 3 at the rate of $20 per horsepower-year of increased primary power; not to exceed $1,200,000 per annum at Dam No. 2 and not to exceed $600,000 per annum at Dam No. 3.

ANALYSIS OF BIDS—FINANCES

Your committee requested the advisory board to make a comparative analysis of the bids of the Air Nitrates Corporation and of the Muscle Shoals Fertilizer Co. and the Muscle Shoals Power Distribution Co. as modified and finally agreed to by the bidders. The final financial analysis made by the advisory board gave results as follows:

MEMORANDUM FOR JOINT COMMITTEE ON MUSCLE SHOALS

Due to certain changes made on April 24, 1926, in the proposal of the associated power companies the figures given in the revised item D of your advisory board's report dated April 23, 1926, should be further revised as follows:

*A. Condition in case Cove Creek Dam or other headwater storage be built by private interests*

| | Power companies | | Air Nitrates Corporation |
|---|---|---|---|
| | Without rebate | With rebate | |
| Total | $181,348,000 | $177,248,000 | $85,931,000 |
| Average annual | 3,626,960 | 3,546,960 | 1,718,620 |

*B. Maximum return to United States*

| | Power companies condition A | Air Nitrates Corporation condition C |
|---|---|---|
| Total | [1] $181,348,000 | [2] $95,739,000 |
| Average annual | 3,626,960 | 1,914,780 |

[1] Same as A above. [2] Same as C following.

*C. Condition in case Cove Creek Dam be built by United States at cost of $25,000,000*

| | Power companies | | Air Nitrates Corporation |
|---|---|---|---|
| | Without rebate | With rebate | |
| Total | $156,348,000 | $152,248,000 | $95,739,000 |
| Average annual | 3,126,960 | 3,044,960 | 1,914,780 |

*D. Condition in case Cove Creek Dam or other headwater storage is not built*

| | Power companies | | Air Nitrates Corporation |
|---|---|---|---|
| | Without rebate | With rebate | |
| Total | $109,348,000 | $105,248,000 | $85,931,000 |
| Average annual | 2,186,960 | 2,104,960 | 1,718,620 |

*E. Condition in case the United States does not elect to build Dam No. 3 or to install additional equipment in Dams Nos. 2 and 3 and steam plant*

POWER COMPANIES

| | Without headwater storage | With headwater storage provided by private interests | With Cove Creek Dam erected by United States |
|---|---|---|---|
| WITHOUT REBATE | | | |
| Total | $88,300,000 | $136,300,000 | $111,300,000 |
| Average annual | 1,766,000 | 2,726,000 | 2,226,000 |
| WITH REBATE | | | |
| Total | 84,200,000 | 132,200,000 | 107,200,000 |
| Average annual | 1,684,000 | 2,644,000 | 2,144,000 |

*F. Condition in case the United States should not build Dam No. 3 but does elect to complete installation at Dam No. 2 and steam plant*

POWER COMPANIES

| | Without headwater storage | With headwater storage provided by private interests | With Cove Creek Dam erected by United States |
|---|---|---|---|
| WITHOUT REBATE | | | |
| Total | $92,880,000 | $140,880,000 | $115,880,000 |
| Average annual | 1,857,600 | 2,817,600 | 2,317,600 |
| WITH REBATE | | | |
| Total | 88,780,000 | 136,780,000 | 111,780,000 |
| Average annual | 1,775,600 | 2,735,600 | 2,235,600 |

An analysis by the Treasury Department comparing the two bids with the bid of Henry Ford, reduced to a 50-year basis, is as follows:

CONDENSED SUMMARY ON TREASURY DEPARTMENT REPORT OF MAY 22, 1926, ENTITLED "REPORT ON VALUE OF VARIOUS OFFERS TO LEASE MUSCLE SHOALS FROM THE UNITED STATES"

The following is a summary of present worths of the various offers with respect to the power properties at Muscle Shoals on the basis of future receipts and expenditures discounted to present value at 4 per cent interest, all interest being compounded annually, and all determinations being for a 50-year period with no deductions for value of the properties at the end of 50 years. Interest at 4¼ per cent has been added to actual past expenditures by the United States during construction of Dam No. 2. Depreciation and obsolescence during 50 years will reduce the value of the construction and equipment by amounts not estimated in this report.

CONDITION I. NO FURTHER APPROPRIATIONS BY THE UNITED STATES

This condition is that Dam No. 2 and the auxiliary steam plant at Nitrate Plant No. 2 be leased by the United States as they stand, without further appropriations by the United States.

The specific properties included, and their costs without interest to the United States are:

| | |
|---|---|
| Dam No. 2, equipped for 247,000 horsepower, with navigation facilities | $47,800,000 |
| Steam plant, equipped for 76,000 horsepower, in Nitrate Plant No. 2 (replacement value) | 7,500,000 |
| Total cost to United States | 55,300,000 |
| Deduct for navigation facilities | 10,000,000 |
| Total past cost of power facilities to United States | 45,300,000 |

| | Past costs power facilities to the United States, as listed above, plus 4.25 per cent interest to June 30, 1926 | Maximum present values of future receipts to the United States | | |
|---|---|---|---|---|
| | | Offer of Associated Powers Co. | Offer of Air Nitrates Corporation | Offer of Henry Ford reduced to 50-year basis |
| Without headwater storage | $49,981,736 | $30,673,916 | (1) | (1) |
| With headwater storage in 10 years | 49,981,736 | 46,719,163 | (1) | (1) |

[1] No bid from Air Nitrates Corporation and Henry Ford. The bids of the Air Nitrates Corporation and of Henry Ford both require the construction of Dam No. 3 and the installation of all additional equipment by the United States as a condition of lease, and make no offer on the properties as they now stand.

ASSOCIATED POWER GAS

1. Without headwater storage:

The maximum present worth of the payments the Associated Powers Co. will make under this condition without headwater storage is $30,673,916.

Under this offer the United States will receive during the 50-year period of the lease:

(a) A return of 2.984 per cent interest on the total investment of $49,981,736, with interest compounded annually at the same rate on deficiencies of interest occurring in the early years of the lease.

(b) No return of any portion of the initial investment.

2. With headwater storage:

The income from headwater storage is problematical, depending on the definition of primary power, the date or dates of the installation of the additional power, and the amount of additional power developed.

If the maximum payments of $1,200,000 annually for headwater storage are realized during the last 40 years of lease at the stipulated rate of $20 a year for each additional primary horsepower developed, the maximum present worth of the total payments the Associated Powers Co. will make under condition 1 is $46,719,463.

(A) Under this offer and contingent on the above assumption the United States will receive during the 50-year period of the lease:

(a) A return of 4.285 per cent interest on the total investment of $49,981,736, with interest compounded annually at the same rate on deficiencies of interest occurring in the early years of the lease.

(b) No return of any portion of the initial investment.

(B) Or, stated in other terms, under this offer and contingent upon the above assumption the United States will secure during the 50-year period of the lease:

(a) A payment of 4 per cent on yearly balances of its initial investment in power facilities and in addition.

(b) Repayment to the United States of $26,797,795, or 53.6 per cent of its initial investment.

Any deficiencies in the payment of interest during the early years of the lease will also be repaid from subsequent receipts, together with 4 per cent interest compounded annually for the period of arrearage.

[NOTE.—In the above computations and those under condition H, no deduction has been made from the payments of the Associated Powers Co. for any discount that may be granted them under this bid for nitrate production in excess of 40,000 tons annually.]

CONDITION II

This condition is that the United States will construct Dam No. 3 in five years, equip Dam No. 2 for 600,000 horsepower, and Dam. No. 3 for 250,000 horsepower, and install added equipment in steam plant or transmission line also within five years. The total additional appropriations by the United States would be $39,460,000.

The specific properties involved and the estimated costs without interest to the United States are:

| | |
|---|---|
| Power facilities, as for condition 1 | $45, 300, 000 |
| Added appropriations: | |
| Dam No. 3, with equipment installed for 80,000 horsepower and with navigation facilities | 32, 500, 000 |
| Added equipment for 600,000 total horsepower at Dam No. 2 | 4, 600, 000 |
| Added equipment for 250,000 total horsepower at Dam No. 3 | 1, 360, 000 |
| Added equipment in steam plant, Nitrate Plant No. 2 | 1, 000, 000 |
| Total estimated investment | 84, 760, 000 |
| Less estimated cost of navigation facilities at Dam No. 3 | 4. 600, 000 |
| Total past and future costs of power facilities to United States ($100,000 less for Air Nitrates Corporation and Ford offer) | 80, 160, 000 |

| | Present value of past and future cost of power facilities to the United States, as listed above | Maximum present values of future receipts to the United States | | |
|---|---|---|---|---|
| | | Offer of Associated Powers Co. | Offer of Air Nitrates Corporation | Offer of Henry Ford reduced to 50-year basis |
| Without headwater storage | [1] $80, 772, 341 | $54, 627, 610 | $45, 832, 283 | $45, 986, 482 |
| With headwater storage in 10 years | [1] 80, 772, 341 | 78, 695, 930 | 45, 832, 283 | 45, 986, 482 |

[1] $80,686,861 should be substituted for this amount in the case of the Air Nitrates Corporation and Henry Ford, since the value of a future expenditure of $900,000 for a transmission tie line between Dam No. 2 and Dam No. 3 is substituted for the value of a future expenditure of $1,000,000 for steam-plant addition at Nitrate Plant No. 2.

ASSOCIATED POWERS CO.

1. Without headwater storage:

The maximum present worth of the payments the Associated Powers Co. will make to the United States under this condition is $54,627,610.

Under this offer the United States will receive during the 50-year period of the lease:

(a) A return of 3.252 per cent interest on the total investment of $80,772,341, with interest compounded annually at the same rate on deficiencies of interest occurring in the early years of the lease.

(b) No return of any portion of the initial investment.

2. With headwater storage:

Assuming that the maximum payments are received annually during the last 40 years of the lease on all headwater storage, the maximum present worth of the total payments the Associated Powers Co. will make to the United States is $78,695,930.

A. Under this offer and contingent on the above assumption the United States will receive during the 50-year period of the lease:

(a) A return of 4.432 per cent on the total investment of $80,772,341, with interest compounded annually at the same rate on deficiencies of interest occurring in the early years of the lease.

(b) No return of any portion of the initial investment.

B. Or, stated in other terms, under this offer and contingent on the above assumption the United States will secure during the 50-year period of the lease—

(a) A payment of 4 per cent on yearly balances of the initial investment in power facilities and in addition.

(b) A repayment to it of $66,015,946, or 81.7 per cent of the initial investment.

Any deficiencies in the payment of interest during the early years of the lease are also repaid from subsequent receipts, together with 4 per cent interest compounded annually for the period of arrearage.

AIR NITRATES CORPORATION

The maximum present worth of the payments the Air Nitrates Corporation will make to the United States for power facilities under this condition is $45,832,283, including value of royalties on Waco limestone.

Under this offer the United States will receive during the 50-year period of the lease:

(a) A return of 2.828 per cent interest on the total investment in power facilities of $80,686,861, with interest compounded annually at the same rate on deficiencies of interest payments which occur in the early years of the lease. Royalty payments on Waco limestone were not included in yearly payments from which the yield of 2.828 per cent was computed, but were offset against estimated deficiencies in payments for maintenance of Dams Nos. 2 and 3.

(b) No return of any portion of the initial investment.

The offer of the Air Nitrates Corporation does not provide for any increased return to the United States for headwater storage.

HENRY FORD

(1) The maximum present worth of payments Henry Ford will make to the United States on basis of a 50-year lease is $45,986,482.

Under this offer, the United States would have received during the first 50 years of the lease period:

(a) A return of 2.798 per cent interest on its total investment in power facilities, with interest compounded annually at the same rate on deficiencies of interest payments which occur during early years of the lease.

(b) No return of any portion of its initial investment.

(2) No deduction has been made for estimated deficiencies in payments under this offer applying to the maintenance of Dams Nos. 2 and 3.

(3) The Ford offer involved a 100-year lease for the power properties. He made no offer on the basis of a 50-year lease. The present worth of the Ford offer for the entire 100 years was $54,684,316.

(4) The Ford offer to lease the power properties is conditioned on outright sale to him on the nitrate properties.

(5) The offer of Henry Ford does not provide for an increased return to the United States for headwater storage.

COMPARATIVE ANALYSIS OF BIDS

The advisory committee submitted a comparative analysis of the bids under the following headings:

(1) National defense.
(2) Benefits to agriculture.
(3) Guaranties.
(4) Monetary return to the United States.
(5) Equitable distribution of power.
(6) Guaranties of performance of the nitrate program.
(7) And additional expenditures required by the United States.

RECOMMENDATION OF THE COMMITTEE

Based on their analysis the majority of your committee reported as follows:

Your committee recommends that the last proposal by the Muscle Shoals Power Distributing Co. and the Muscle Shoals Fertilizer Co. be accepted and submits a proposed bill herewith and recommends

its passage. In the judgment of the majority of your committee the latter bid is the best bid submitted to it, and in support of its recommendation your committee submits the following:

I. NATIONAL DEFENSE

National defense is adequately served by this offer. The present plant or its equivalent in respect to capacity is to be maintained (until released by Congress) in its present state of readiness for the manufacture of explosives, the premises and personnel may be taken over by the United States whenever necessary in the interest of national defense, and a maximum amount of power is rendered available from the interconnected system for war industries.

(a) The offer provides that the lessee of the nitrate properties shall construct and have ready for operation within six years synthetic ammonia plants to a capacity of 20,000 tons of fixed nitrogen. The first 10,000-ton unit of fixed nitrogen will be put in operation within three years and the second 10,000-ton unit within three years thereafter.

After the above plants of 20,000 tons capacity for the fixation of nitrogen shall have been operated to full capacity for two successive years, then the lessee will in response to market demand construct an additional unit of 10,000 tons; likewise when the plants of 30,000 tons capacity above provided for have operated to full capacity for two consecutive years, then the lessee will in response to market demand construct an additional unit of 10,000 tons, making, in total, plants capable of fixing 40,000 tons annually.

Provision is made for expansion beyond 40,000 tons of fixed nitrogen per annum on request of the farmers' board when in the judgment of the board of directors of the lessee company it is reasonably necessary to meet market demands.

(b) The lessee company agrees to operate and maintain Nitrate Plant No. 2 during the term of the lease in its present state of readiness, or its equivalent in respect of capacity for the manufacture of materials necessary in time of war for the production of explosives, such obligation as to operation or maintenance to cease when in the judgment of Congress other plants are erected which have equivalent nitrogen capacity and which render the further maintenance of said plant unnecessary.

(c) The United States has the right to take over and operate the leased premises whenever necessary in the interest of national defense, and such of the expert and other personnel as may be necessary shall be at the disposal of the United States.

(d) The production of fixed nitrogen for use in war is well provided for by the proposal.

(e) Electric power was one of the great necessities in the World War and the lack of interconnection of operating power companies prevented the maximum utilization of their installed generating capacity in the manufacture of munitions and materials vital to our war effort. Electric power will be in the next great emergency even of higher importance than in the past. The associated power companies, who make this offer, operate in an interconnected system stretching from the North Carolina-Virginia line to the State of Mississippi and from north of the Cumberland River to the Gulf of Mexico.

They agree, in the national defense, to operate or cause to be operated the power plants leased in a manner to secure the greatest efficiency and maximum power output through interconnection with auxiliary storage, steam reserve, and other power plants operated by interconnected power companies. This provision guarantees that a maximum of power not needed for the manufacture of fertilizer will be distributed to industry and agriculture throughout the Southeastern States in time of peace and that in time of war a maximum amount of power will be available for war industries.

(f) The proposal further provides that whenever the safety of the United States demands, the United States shall have the right, in accordance with the Federal water power act, to take over and operate the power projects covered by the lease for any purpose involving the safety of the United States, for such length of time as may appear to the President necessary for such purpose.

Two essentials of national defense, in the interest of which the construction of this plant was originally undertaken, namely, the production of fixed nitrogen and electric power widely distributed for war industry, are well provided for in this offer.

II. BENEFITS TO AGRICULTURE

Agriculture is served by a definite program of fertilizer production up to and beyond the present capacity of the plant. Operation is primarily for the production of nitrates with rigid limitations on profit and strong guaranties of performance.

(a) The Fertilizer Co. agrees to produce annually 40,000 tons of nitrogen in the form of concentrated fertilizer, by means of synthetic ammonia and phosphoric-acid plants, as follows: Within three years, 10,000 tons annually of fixed nitrogen; within the succeeding three years, additional 10,000 tons annually of nitrogen—total, 20,000 tons annually; thereafter, in succession, two additional units of 10,000 tons each annually, dependent on the sale for two consecutive years of such amount stipulated up to that time. Production beyond 40,000 tons annually is provided for but not guaranteed.

(b) A capital of $20,000,000 is provided by the bidder for this program of fertilizer production.

(c) The company agrees to limit its profits on fertilizer to 8 per cent on cost, cost to include 6 per cent interest on invested capital, 7½ per cent annual depreciation on the plants erected by the company, and cost of power at the actual cost to the power company.

(d) A farmer board of five members appointed and removed by the Secretary of Agriculture is provided for, three to be members of farmer organizations and to be actually engaged in farming, one representative of the Department of Agriculture, and one nominee of the fertilizer company. The duties of this board shall be to regulate, subject to the approval of the Secretary of Agriculture, the sale and territorial distribution of fertilizer products, to provide an audit of the cost of fertilizer, to advise with the company as to price to be charged for fertilizer within the specified limits of profit and with respect to production necessary to meet the market demands.

(e) The board is assured access to the books and records of the company, thereby making possible a critical analysis by the farm board of all items of cost of fertilizer.

(f) The fertilizer company agrees to offer fertilizer for sale to farmers, cooperative purchasing organizations of farmers, associations of farmers, and to others as the farm board may direct.

(g) It further agrees to establish a research bureau and laboratory for the study of processes of producing fertilizer materials and to cooperate with State and Federal agencies; from time to time to improve its processes of operation and to dedicate to public use any patents granted pertaining to the production of fertilizer ingredients.

(h) The fertilizer company shall have the preferred use of all power from the leased power plants of the Government at Muscle Shoals for the production of nitrogen and other fertilizer ingredients, and all surplus power shall be sold with such reservations as will allow its gradual withdrawal and application to fertilizer manufacture.

GUARANTEES

The inducements and guaranties of performance which your committee believes will stimulate and insure a maximum of effort on the part of the fertilizer company to produce fertilizers continuously as specified are the following:

(1) There may be a reduction at the option of the United States of power rentals by 5 per cent in each year following any year in which the company shall have sold fertilizer according to the established schedule—with additional inducement of 5 per cent or more at the option of the Secretaries of War and Agriculture for production beyond 40,000 tons.

(2) The capital investment of the company in fertilizer plants, power equipment, and transmission lines to the amount of $60,000,000 which would cease to bring return in the event of failure to produce fertilizer continuously.

(3) The agreement of the Power Distributing Co. to surrender their power lease in the event of forfeit in the fertilizer contract.

III. MONETARY RETURN TO THE UNITED STATES

In addition to insuring an economic program of nitrate and fertilizer production the bid provides the largest monetary return to the United States of any of the bids considered. First, with the properties as they now stand without further expenditure by the United States; secondly, they provide larger financial returns for increased power at these properties due to upstream developments regardless of whether these latter are made by the United States or by other interests.

(A) RETURN ON PROPERTIES AS THEY STAND

On the properties as they stand to-day with no further investment by the United States other than those contemplated under unexpended balances of existing appropriations, the properties will return to the United States in the lease period, namely, 50 years—

| | |
|---|---|
| (a) From rentals on Dam No. 2 | $83,800,000 |
| (b) From rentals on additional units in Dam No. 2 to be installed at expense of lessee | 4,500,000 |
| (c) Maintenance of Dam No. 2, an indeterminate amount. | |
| Total | 88,300,000 |

(B) RETURN PROVIDED UNITED STATES BUILDS DAM NO. 3

On the properties completed to the extent of existing appropriations, if additional capital is invested by the United States in constructing Dam No. 3 and in installing additional generating transformer and switching equipment in the power plants at Dams Nos. 2 and 3, and the steam plant at Nitrate Plant No. 2, the return to the United States in the lease period will be:

| | |
|---|---|
| (a) Rental on Dam No. 2 | $83,800,000 |
| (b) Rental on Dam No. 3 | 52,400,000 |
| (c) Interest on additional equipment | 12,608,000 |
| (d) Maintenance of Dams Nos. 2 and 3, an indeterminate amount. | |
| Total | 148,808,000 |

From this should be deducted the additional capital investment by the United States made up of the following estimated costs:

| | |
|---|---|
| Dam No. 3 | $32,500,000 |
| Additional equipment— | |
| Dam No. 2 | 4,600,000 |
| Dam No. 3 | 1,360,000 |
| Steam plant | 1,000,000 |
| Total additional capital investment | $39,460,000 |
| Net return to United States | 109,348,000 |

(C) RETURN IN EVENT HEADWATER STORAGE IS DEVELOPED

An additional payment is assured to the United States in event headwater storage is developed. The lessee will pay $20 per horsepower year for each additional horsepower of primary horsepower in excess of the present 80,000 horsepower, created at Dam No. 2 by headwater storage, not to exceed $1,200,000 per year, and in excess of 40,000 horsepower created at Dam No. 3 by headwater storage, not to exceed $600,000 per year.

It is estimated that the proposed Cove Creek Dam or other equivalent headwater storage will increase the primary horsepower at Dam No. 2 to 150,000 horsepower and at Dam No. 3 to 65,000 horsepower. Therefore should this construction be completed within 10 years of effective date of lease, the net additional returns above (paragraph (a)) would be increased by $48,000,000, making the total return to the United States $136,300,000.

Similarly the net return given under the second condition above (paragraph (b)) would be increased by $72,000,000, making the total return to the United States $181,348,000.

The above figures represent the actual proceeds to the United States should Cove Creek or other equivalent headwater storage be constructed by parties other than the United States.

If Cove Creek Dam or other equivalent headwater storage is built by the United States, these two total returns immediately preceding should be decreased by some proportion of the cost of such dams. Neither the proportion nor the cost of securing this storage can be accurately estimated at this time.

IV. EQUITABLE DISTRIBUTION OF POWER NOT USED IN PRODUCTION OF NITRATES FOR NATIONAL DEFENSE AND FERTILIZER

This bid provides means for an equitable distribution over a wide area of the surplus power not required in production of nitrates for national defense and fertilizer.

(a) The public power companies associated together in the creation of the Muscle Shoals Power Distributing Co., which under this bill is to be the lessee of the Muscle Shoals properties, are now severally producing and distributing electric power in the States of Alabama, Mississippi, Louisiana, Arkansas, Kentucky, Tennessee, Georgia, and Florida, and through interconnections in North and in South Carolina.

(b) The declared intention of the lessee company is to connect up the Muscle Shoals power plants with auxiliary storage, steam reserve, and other electric power plants elsewhere in the electric system and to operate the interconnected system so as to secure the maximum power output and lowest cost of power production and to sell the surplus power to the public through the interconnected systems of the power distributing companies under regulation of duly constituted public authorities, and in such a manner that it will be equitably distributed between the communities and States to which it may be properly transported.

In those cases, where the States do not have an authorized regulatory body for regulation and control of electric service and rates, the Federal Power Commission will exercise this authority until such time as the State may establish regulation.

(c) Your committee believes that once the interests of national defense and fertilizer production have been assured, as your committee believes them to be assured in this bill, the benefits of the Muscle Shoals can in no other manner be distributed so widely and so fairly as through an interconnected electric system which should insure that the benefits of increased stream flow due to rainfall on one watershed may be transported or relayed to communities of another watershed where stream flow may for the time being be deficient and which will similarly call into play large reserve steam plants when stream flow is generally deficient.

Under these leases every unit of power produced at Muscle Shoals will be utilized either in the manufacture of fertilizer for the benefit of agriculture or in regional distribution under public regulation, for the benefit of the public in domestic, industrial, and farm use. None of the power will be retained for any private purpose whatever.

(d) Your committee is also of the opinion that through the greater and more diversified market available through such interconnection there will result a lower cost of power at Muscle Shoals than if Muscle Shoals were operated as an isolated unit, thereby effecting a probable reduction in cost of power going into manufacture of fertilizer.

V. GUARANTIES OF PERFORMANCE OF THE NITRATE PROGRAM

The bidder furnishes guaranties to safeguard the production of nitrogen and other fertilizer ingredients. Default in this particular will involve not only loss of returns on the large capital investment of the bidder in the fertilizer enterprise but also upon an almost equally large investment in transmission lines and other power equipment. On the other hand, progressive expansion of fertilizer production is made financially remunerative to the company with proportionate reduction of fertilizer cost to the farmer:

(a) The company will provide $20,000,000 as needed for the construction and operation of the fertilizer plants and facilities. It is estimated that the construction of the first two units, which are to be ready for operation within six years, will cost the power companies about $7,000,000.

(b) To distribute the surplus power not needed for the manufacture of fertilizer they will have to make heavy investments in new transmission lines to such industrial centers as Nashville and Memphis and to other cities and towns in western Tennessee, in Mississippi, and portions of Louisiana.

(c) They agree that if the fertilizer company is determined to be in default in the provisions of its lease and such default continues for six months thereafter, default by the fertilizer company shall, at the option of the United States, as declared by the Secretary of War, be held to be a default of the power company under its lease.

VI. ADDITIONAL EXPENDITURES REQUIRED BY THE UNITED STATES

The bid recommended has an advantage in that it does not require additional appropriations by the United States involving the further expenditure of large sums of money on the Muscle Shoals property. The bid provides conditions covering returns to the United States in event Dam No. 3 is at any time constructed by the Government, but the Government is not committed to the construction of this dam as a condition of the lease.

Further, the United States is not required to issue licenses for other dam sites upstream to the bidder as a condition of the lease.

This bid can be accepted, therefore, without further expenditures of Government money or any extension of considerations by the United States in the way of licenses for other dam locations.

For the foregoing reasons, in the judgment of the majority members of your committee, the proposal recommended provides greater benefits to the Government and to agriculture than those set forth in H. R. 518 of the Sixty-eighth Congress, first session, and the lease proposed, in the judgment of the majority of the committee, provides the necessary guaranties for the production of the amount of fixed nitrogen required by the joint resolution.

CHARLES S. DENEEN, *Chairman.*
FREDERIC M. SACKETT.
JOHN M. MORIN.
PERCY E. QUIN.

APRIL 26, 1926.

NAVIGATION ON THE TENNESSEE RIVER

To canalize the Tennessee River so as to provide continuous navigation the year round from Paducah, Ky., at the mouth of the river on the Ohio, to Knoxville, Tenn., and for 100 miles up the Clinch River to the neighborhood of important coal fields, there are required 18 dams. Of these 18 dams two (No. 1 at Muscle Shoals and the Widows Bar Dam) are low dams for navigation only, now owned and operated by the Government. Of the remaining 16 dams power developments are contemplated for all. Of these 16, three at the head of the Clinch-Powell Rivers system are to provide storage for power and only local navigation. For the remaining 13 dams, power, pondage, and through navigation are contemplated. Of these 16 dams two are now built and in operation; these are the Wilson Dam at Muscle Shoals and the Hales Bar Dam, 30 miles below Chattanooga. Of the remaining 14 dams an application to the Federal Power Commission for a permit is pending for those (11 in number) above Chattanooga. An application for license to construct is pending for one below Colbert Shoals, about 38 miles below Muscle Shoals.

BIDS AND APPLICATIONS FOR POWER SITES, THE ASSOCIATED POWER COMPANIES

The Associated Powers Co. (comprising 13 power companies and incorporated as the Muscle Shoals Power Distributing Co. and the Muscle Shoals Fertilizer Co.) submitted to Congress an offer to lease Dam No. 2 and Dam No. 3 (if constructed by the United States).

One of these companies, the Mississippi Power Co., is the applicant for the license to construct the dam below Colbert Shoals.

Another of the 13, the Alabama Power Co., is understood to be purchasing flowage and other rights for the Guntersville Dam.

Another of the 13, the Tennessee Power Co., now owns and operates the Hales Bar Dam, and is also one of the two members of the company applying for permit for the 11 dams on the Tennessee, Clinch, and Powell Rivers above Chattanooga.

From the foregoing it is evident that the public utility power companies operating in the Muscle Shoals region, collectively

or individually, are proposing to undertake the complete development of the Tennessee River from below Riverton, which is situated 30 miles below Muscle Shoals, to Knoxville, Tenn., and the development of the Clinch River to a point above the Virginia State line. Also they are planning completely to develop the storage possibilities of the Clinch-Powell Rivers system by building the three storage dams of governing importance.

It is also apparent that this system of 16 power and navigation dams is, from the power standpoint, an interdependent unit, and in the public interest can be more efficiently operated as such than if divided into parts under the control of agents independent of each other, except for the general supervision of the Federal Power Commission.

The Air Nitrates Corporation (page 19, committee report) has submitted to Congress an offer for the Wilson Dam and for Dam No. 3, at Muscle Shoals, provided that the Government obligates itself to build Dam No. 3, and also for the Cove Creek, Clinton, Melton Hill, and Senator Dams on the Clinch River under conditions named in the proposal. It is important to note that the Air Nitrates Corporation contemplates no improvement for navigation below Muscle Shoals to Riverton; it contemplates no improvement for navigation in the 40-mile stretch of open river between the head of Dam No. 3, Pool, and Widows Bar; and it contemplates no improvement for navigation in the 180-mile stretch of open river from Chattanooga to Knoxville. The outstanding difference between the offer of the Associated Powers Companies and that of the Air Nitrates Corporation, from the standpoint of river improvement and from the public interest in navigation, consists in the fact that the former will effect a complete 9-foot canalization of the Tennessee River from Riverton to Knoxville and to Cove Creek on the Clinch River—with the exception of Dam No. 3, if it is not built by the Government—while the latter will provide for navigation from Wilson Dam to the head of the pool of Dam No. 3 only, no improvement in navigation being contemplated by the Air Nitrates Corporation below Muscle Shoals or above Dam No. 3 pool on the Tennessee River.

DAM NO. 3

The Air Nitrates Corporation offer is favored by some on the ground that its acceptance will definitely commit the Government to the immediate construction of Dam No. 3 at Muscle Shoals and that by this means through canalized navigation of the river to Chattanooga will be secured. The error of this assumption is apparent. The Guntersville Dam is as necessary to navigation to Chattanooga as is Dam No. 3, while adequate navigation below Florence, Ala., calls for the dam below Colbert Shoals. Neither of these important developments is considered by the Air Nitrates Corporation.

Objections have been made to the provisions in the applications of the East Tennessee Development Co. for permits for Cove Creek, Clinton, Melton Hill, Senator, and other dams on the ground that the permits would be allowed to run the full limit of three years permissible under the Federal power act. It has been alleged that this indicates a desire on the part of the power company to delay rather than to expedite construction at these sites.

In its bid to Congress the Air Nitrates Corporation includes the provision that the term specified in its bid within which construction on these dams must be begun shall run for five years, or two years beyond the present legal limit.

GREATER WATER STORAGE BY POWER COMPANIES

The application by one of the Associated Powers Co. for the 11 dams above Chattanooga contemplates total useful water storage of about 2,800,000 acre-feet. The application by the Air Nitrates Corporation contemplates total useful storage of about 2,000,000 acre-feet. The additional 800,000 acre-feet contemplated by the application of the Associated Powers Co., it is estimated, will increase the minimum discharge throughout the system below by 3,000 cubic feet a second. Failure to provide this 800,000 acre-feet would therefore be a serious defect in the development of the Tennessee River as a whole.

GREATER POWER DEVELOPMENT BY POWER COMPANIES

The public-utility power companies, in the combined offer to Congress of the Associated Powers Co. for leasing Muscle Shoals and in their individual activities and applications, commit themselves to an additional hydroelectric installation of 2,195,000 horsepower, while the Air Nitrates Corporation commits itself to a development of only 1,105,000 horsepower, and this is made contingent on an additional expenditure by the Government of $32,500,000 for Dam No. 3 at Muscle Shoals. These figures are those which include the ultimate Muscle Shoals installation of equipment.

To summarize, the individual and collective plans of the public-utility power companies provide for the full development of all the navigation, governing storage, and power possibilities on the Tennessee, Clinch, and Powell Rivers (with the exception of Dam No. 3), while the plans of the Air Nitrates Corporation do not provide for the full development on any one of these rivers.

So much for the power and navigation features.

FIXED NITROGEN

On the matter of the production of nitrates and other fertilizer ingredients, as provided by the concurrent resolution, I have to say:

There are three plant foods: Nitrogen, phosphoric acid, and potash. These elements, without being fixed, are no more available as plant food than would the banana, the orange, or the watermelon be available as human food if it were not for the skin or rind. That is, the food portion of this fruit in order to be picked, packed, shipped, distributed, and stored must be contained; and just so the nitrogen, phosphorus, and potassium must be so fixed or contained that it can be stored, shoveled into bags, shipped, distributed over the ground and, after distribution, remain in the ground until such time as the roots of the plant can reach out to take it. This container is not what is known as filler, but is known as carrier.

The percentage of fertilizer plant food carrier varies all the way from 84 per cent to 28 per cent, as shown by the following table:

| Material | Per cent ammonia equivalent | Per cent nitrogen | Plant foods | | Per cent carrier |
|---|---|---|---|---|---|
| | | | Per cent phosphoric acid | Per cent potash | |
| Ammonium sulphate | 25 | 20.6 | 0 | 0 | 75.4 |
| Ammonium nitrate | 42.5 | 35 | 0 | 0 | 65 |
| Ammonium sulphate nitrate | 34 | 28 | 0 | 0 | 72 |
| Chile nitrate | 18 | 15.6 | 0 | 0 | 84.4 |
| Ammonium phosphate | 14 | 12 | 60 | 0 | 28 |
| Acid phosphate | | 0 | 16 | 0 | 84 |
| Triple acid phosphate | | 0 | 48 | 0 | 52 |
| Urea | 55 | 45 | 0 | 0 | 55 |
| Nitrate of potash | 16 | 13 | 0 | 43 | 44 |
| Muriate and sulphate of potash | | 0 | 0 | 48 | 52 |

From this table there can be figured the quantity of carrier and filler for a mixed fertilizer of any composition.

THE NITROGEN SITUATION

The present annual consumption of inorganic nitrogen in the world is nearly a million and a half tons. This is made up as follows:

| | Tons nitrogen | Per cent of total |
|---|---|---|
| As Chile nitrate | 375,000 | 27 |
| From by-product coke ovens | 425,000 | 30 |
| As fixed atmospheric nitrogen | 600,000 | 43 |
| Total | 1,400,000 | 100 |

Germany, with a population 50 per cent less than ours, consumes twice as much fertilizer nitrogen. In other words, per unit of population, Germany consumes four times as much fertilizer nitrogen as does the United States. It is further interesting to note that even with this large consumption by the much smaller population, Germany is not only entirely self-sustaining and free from foreign sources of supply but actually exports nitrogen both for sale and as payment on reparation accounts. A study of the following table shows the production by countries of fixed atmospheric nitrogen:

*Fixed atmospheric nitrogen production capacity*

| Country: | Net tons nitrogen |
|---|---|
| 1. Germany | 430,000 |
| 2. Norway | 38,000 |
| 3. Japan | 27,000 |
| 4. France | 20,000 |
| 5. Canada | 20,000 |
| 6. Italy | 13,000 |
| 7. Poland | 11,000 |
| 8. Czechoslovakia and Yugoslavia | 11,000 |
| 9. England | 10,000 |
| 10. United States | 9,000 |
| 11. Spain | 9,860 |
| 12. All others | 2,209 |

As the United States consumes annually 200,000 tons of nitrogen in fertilizer, it is seen that Germany produces synthetically more than twice the consumption of this country. This synthetic production of Germany represents 31 per cent of the total consumption of the world and 72 per cent of the world's synthetic production.

The synthetic production in the United States, none of which gets into fertilizer as yet, represents 0.6 per cent of the world's consumption and 1.5 per cent of the total world's synthetic production. If the by-product coke oven production is added to this synthetic production, it is found that Germany produces 35 per cent of the world's inorganic nitrogen consumption, while the United States produces but 8 per cent. The United States, on the other hand, imports some 200,000 tons annually, or 13 per cent of the world's annual production.

THE FIXATION OF ATMOSPHERIC NITROGEN

There are at the present time in commercial use three processes for the fixation of atmospheric nitrogen:

(1) The arc process, in which air is passed over an electric arc, causing the constituent parts of the air, nitrogen and oxygen, to enter into chemical combination as oxides of nitrogen, which, when absorbed in water, give nitric acid. Nitric acid, a very necessary explosive ingredient, can be combined with lime to form calcium nitrate, a valuable fertilizer material of 13 per cent nitrogen content, or treated with ammonia to form ammonium nitrate, which was used very extensively during the late war as a shell filler and is now used to some extent as a fertilizer. This process consumes 67,000 kilowatt-hours of energy per ton of nitrogen fixed, or would require 400,000 horsepower for the fixation of 40,000 tons of nitrogen, the capacity of the present Muscle Shoals plant.

(2) The cyanamide process: The immediate fixation product is calcium cyanamide. In this process finely ground calcium carbide, a product of the electric fusion of a mixture of finely ground lime and coke, heated to a high temperature, is treated with nitrogen, which it absorbs as a sponge would water, forming calcium cyanamide. This cyanamide can then be autoclaved into ammonia, which can be further treated to form nitric acid or any of the ammoniacal salts: Ammonium nitrate, sulphate, phosphate, and so forth. This process consumes 15,000 kilowatt-hours of energy per ton of nitrogen fixed, or requires approximately a 90,000-horsepower installation for 40,000 tons of nitrogen.

(3) The direct synthetic-ammonia process: This process, although the newest, has far outdistanced the other two processes in quantity production and plant capacity erected. In this process nitrogen and hydrogen, the constituent parts of ammonia, are forced into chemical combination by what might be called brute strength; that is, they are mixed in the proportions of one part of nitrogen to three parts of hydrogen and compressed to high pressures, when this mixture is passed over a material called a catalyst, at a temperature of 500° C. The direct result of this is the chemical combination of these two elements, forming ammonia. While this process is spoken of as a nitrogen-fixation process, the nitrogen, so far as cost goes, is of very minor importance. The hydrogen of this product, ammonia, represents approximately one-half the cost of the finished product. Hydrogen sufficient to combine with 1 ton of nitrogen would require for its production electrically 13,000 kilowatt-hours of energy, or require an 80,000-horsepower installation for 40,000 tons of nitrogen. In addition to this there would be required during the actual chemical combination of the nitrogen and hydrogen for motive power 3,000 kilowatt-hours of electrical energy per ton of nitrogen fixed, or, roughly, 20,000 horsepower for 40,000 tons of nitrogen, a total of 100,000 horsepower.

If, however, this hydrogen is secured from water gas, which is made by passing steam over hot coke and is often referred to as the coal method, there will be practically no electrical energy required for the hydrogen production, but the same requirements for motive power, which would then mean that the total power requirements per ton of nitrogen fixed would be 3,000 kilowatt-hours, equivalent to 20,000 horsepower for 40,000 tons of nitrogen. Of the nitrogen fixed by this process, 82 per cent is fixed with hydrogen secured through coal—70 per cent as water gas and 12 per cent as by-product coke-oven gas—while only 15 per cent is fixed with hydrogen from the electrolysis of water.

RAW MATERIALS REQUIRED

The following table shows the raw materials required by each process to fix 40,000 tons of nitrogen:

| Process | Power (horsepower) | Other materials |
|---|---|---|
| Arc | 400,000 | |
| Cyanamide | 90,000 | 325,600 tons limestone, 89,200 tons coal, 100,000 tons coke. |
| Direct synthetic ammonia | 20,000 | 125,000 tons coke or 150,000 tons coal. |

COSTS AND INVESTMENT

The following table shows the estimated cost of ammonia with the additional necessary investment: (1) For the operation of the United States Nitrate Plant No. 2; (2) for the operation of a direct synthetic-ammonia plant located at Muscle Shoals and utilizing those parts of United States Nitrate Plant No. 2 adaptable; and (3) for a direct synthetic-ammonia plant at any other location:

*Cost of 40,000 tons of nitrogen fixed as 50,000 tons of ammonia*

(Power at 20 per horsepower year=3 mills per kilowatt hour.)

| Process and plant | Additional capital required for plant construction | Cost of ammonia per ton |
|---|---|---|
| Cyanamide, United States Nitrate Plant No. 2 | $3,500,000 | $156.92 |
| Synthetic ammonia (water gas hydrogen) United States Nitrate Plant No. 2 | 15,350,000 | 94.18 |
| Synthetic ammonia (water gas hydrogen) entirely new location and plant | 18,850,000 | 96.18 |

(NOTE: Capital charges are included at 10 per cent of new investment. No capital charges are made on the already existing plant.)

The water-power projects and the nitrogen fixation projects of the Muscle Shoals property were linked together in section 124 of the national defense act of 1916, before the great advance in the production of nitrogen by the synthetic process. Congress has considered, during the past 10 years, these two projects as a single project. In attempting to enter into satisfactory contract for the disposition of the United States properties at Muscle Shoals, it has had to consider them as primarily a fertilizer project.

THE NECESSITY FOR NITROGEN

As nitrogen is decidedly the most expensive of the three plant foods ordinarily used in fertilizers, cheaper nitrogen is the surest means to cheaper fertilizer. But why more abundant fertilizer? The population of the country is increasing rapidly, so that not only must artificial fertilizers, and hence nitrogen, come in for greater use in order to keep up present crop production, but also to rebuild the soils to a higher state of productivity to take care of the increased production for this increased population. Heretofore this was taken care of by putting in cultivation additional virgin lands; likewise, upon the depletion of the soil to the point of uneconomical production by abandoning of that soil in favor of a virgin tract. Such a system was undoubtedly an economical one and could be carried on until the point of exhaustion of virgin tillable soil. The time of such exhaustion has now been reached and we are confronted with the problem of increasing artificial fertilization or lowering of the present American standards of living.

THE TAX IMPOSED BY CHILE ON THE UNITED STATES

This country, in consuming one and a quarter million tons of Chilean nitrate for the year 1925, paid to Chile for the maintenance of the Chilean Government $15,000,000, at a rate of $12.50 per ton (equivalent to $80 per ton of pure nitrogen) export tax in Chile on Chilean nitrates. Thus not only is our country dependent upon Chile as its source of supply of nitrogen, but because of this dependency on a far-away country the consumers of this nitrogen are taxed some $15,000,000 by a foreign nation.

Shortly after the beginning of the World War there was great agitation throughout the major countries of the world looking toward each country becoming independent of foreign sources of supply of nitrogen. Germany has been very successful in this and is now planning such extensive developments as will give her a production permitting of a greater export tonnage of nitrogen than that enjoyed by Chile.

The Muscle Shoals nitrogen-fixation properties might have a very useful and stimulating effect on the nitrogen industry in this country, which at the present time, although progressing, is making rather slow progress. It is true that the production as of the present capacity of Muscle Shoals would be

but 15 to 20 per cent of the total nitrogen demands of the United States, but nevertheless such fixation of nitrogen for use in fertilizers, especially because of the wide publicity given to Muscle Shoals and the willingness of the farmers to use the newer forms of fertilizers which it is proposed by the various bidders to produce at Muscle Shoals, would serve as a pioneer to an extensive and very useful and necessary industry in this country. It is then proposed naturally that these two projects should be assembled into one great project, with fertilizer production predominating.

NITRATES AND POWER LINKED TOGETHER

A consideration of the present offers for the Muscle Shoals properties must be on this basis, because Concurrent Resolution 4 provides that consideration must be given "for the production of nitrates primarily and incidentally for power purposes."

Of the two offers, that is, that of the Associated Powers Co.'s and that of the Air Nitrates Co., the Associated Powers Co.'s offer appears to have by far the better provisions for fertilizer production. This latter offer has a definite provision for getting into 20,000 tons of nitrogen capacity and production, with further provision for going up to 40,000 tons of nitrogen, and finally beyond 40,000 tons under certain conditions.

The Air Nitrates Corporation, on the other hand, has a definite schedule for getting into 10,000 tons of nitrogen production and bases, the next 10,000 tons on conditions of sale of the first 10,000 tons, and further bases the next two units of 10,000 tons each on conditions of further developments and improvements of the power projects at vast expense to the Government.

The acceptance of either of these bids might be looked upon as Government aid to fertilizer production. It might be well to review briefly what has happened in some of the other countries.

FOREIGN NATIONS AND FIXED NITROGEN PRODUCTION

In Germany the Oppau plant was started prior to the war, but was greatly enlarged during the war on money loaned to the operating company by the German Government. The large Merseburg plant was started directly as a war enterprise and received financial assistance from the Government, the direct amount or form of which is not known.

In England the Synthetic Ammonia & Nitrates (Ltd.), a subsidiary of the Brunner-Mond Co., the largest chemical manufacturers in England, bought for a very nominal sum the properties and experiences of the Government in the fixation of atmospheric nitrogen. The Government had actually started construction on a plant which has been completed by the Synthetic Ammonia & Nitrates (Ltd.) and which is now being enlarged on funds secured through the sale of its bonds, the interest on which has been assured by the Government.

In Italy Dr. Luigi Casale, who did considerable work on nitrogen fixation for the Government during the war, was permitted to use this experience and whatever facilities were available for his own use in a continuance of this work, looking toward its commercial exploitation.

In France the Government is erecting a large synthetic ammonia plant of a yearly capacity of 57,000 tons of nitrogen, or almost one and one-half times the size of the Muscle Shoals plant. This is being erected at Government expense and is to be operated by the Government.

For the foregoing reasons the majority of the joint committee considered the bid of the Associated Powers Co. the best bid offered and the best bid which could be obtained by it on the terms stated in the resolution giving it authority.

Mr. SACKETT obtained the floor.

Mr. NORRIS. Mr. President, will the Senator from Kentucky permit me to ask the Senator from Illinois [Mr. DENEEN] a question or two?

The PRESIDING OFFICER (Mr. WHEELER in the chair). Does the Senator from Kentucky yield to the Senator from Nebraska?

Mr. SACKETT. I yield.

Mr. NORRIS. First, I wish to ask the Senator from Illinois about the French plant which he mentioned at the close of his address. Is that to be operated by the Government?

Mr. DENEEN. It is to be operated by the Government.

Mr. NORRIS. What kind of power is that plant going to use?

Mr. DENEEN. I am not able to answer that question definitely, but I think they intend to use coal or coke.

Mr. NORRIS. What is the capacity in horsepower of the plant?

Mr. DENEEN. I have not that information. I requested those in charge of the fixed-nitrogen department to give me the facts as to the manufacture of fixed nitrogen in foreign countries, and I have quoted from the report which they gave me in tons.

Mr. NORRIS. Are the plants in Germany to which the Senator referred operated by water power or by steam?

Mr. DENEEN. They are operated by coal and coal products or lignite.

Mr. NORRIS. What kind of power is being used in Great Britain?

Mr. DENEEN. Coal chiefly, I think.

Mr. NORRIS. And what kind of power is being used in Italy?

Mr. DENEEN. I am not sure about Italy; I should not be able to say as to that country.

Mr. NORRIS. Is there any significance in the fact that in all the remainder of the world where it is desired to cheapen fertilizer those countries are not using water power to do so? Does that fact strike the Senator from Illinois as having any significance?

Mr. DENEEN. The information which the committee received from the various experts was to the effect that the manufacture of nitrogen could be done more cheaply where there were supplies of coal and coke and limestone than it could be done by water power.

Mr. NORRIS. Before I ask the next question I desire to remind the Senator that in the very able address which he has just finished he has called attention to the immense amount of power which is used in the arc process and the cyanamid process.

Mr. DENEEN. Yes.

Mr. NORRIS. The arc process was the pioneer process, as it might be called?

Mr. DENEEN. That process is used in Norway because of the cheap power there available.

Mr. NORRIS. Water power is used in that process. In the Senator's study of the subject has it impressed him that throughout all its history from that time on to the present there has been less and less water power used until in Germany and in Italy and in France and in Great Britain, where they are making fertilizer or attempting to make it, and in some instances actually are making it, they have discarded water power entirely and are using coal?

Mr. DENEEN. That is true for two reasons; first, because of the expense, and second, the inability to secure water power, particularly in Germany.

Mr. NORRIS. Is it not true in this country that there are commercial organizations getting nitrogen from the air which had the whole country in which to locate, but which selected places where there is no water power, but where there is cheap coal?

Mr. DENEEN. I think not.

Mr. NORRIS. Let me call the Senator's attention to the plant that is operating now, or that is just about to begin operations, I think, in the neighborhood of Charleston, W. Va.

Mr. DENEEN. That plant will use coal, I have been informed.

Mr. NORRIS. Yes; it will use coal. It is the newest plant of the kind in the world, is it not?

Mr. DENEEN. It is the newest one in this country.

Mr. NORRIS. Is there any plant anywhere else more modern than that?

Mr. DENEEN. I would not be able to say as to that. It is the latest one in our country, I understand.

Mr. NORRIS. Has the Senator the information that has come to me—and if I am wrong I should like to be corrected—that those interested in that plant located in West Virginia, although they were not West Virginia people—they were of the du Pont organization, as I understand, of Delaware—because that was the place where they found the cheapest coal.

Mr. DENEEN. They found cheap coal and coke there. That is my understanding. The committee, however, was directed to secure bids on the production of fertilizer at Muscle Shoals.

Mr. NORRIS. Yes. I do not want the Senator to get any idea that I am complaining. I am not finding fault. I realize what the committee were directed to do. I thought then and think yet they were starting on a wild-goose chase; that they were doing something that modern science would lead off in a different direction. I am not complaining of the committee, of course. They had their instructions and, I presume, followed them.

Mr. DENEEN. There are water power, coal, coke, and other necessary elements in ample quantity at Muscle Shoals. I presume in the first instance the President had the plant located there because of the materials there that could be utilized.

Mr. NORRIS. Yes; I am not complaining of the location originally. Of course that was done several years ago——

Mr. DENEEN. Ten years ago.

Mr. NORRIS. When we did not know as much about it as we do now.

I wish now to ask the Senator this question: From the study and diligent research which I know he has made into the subject, does he not believe, having in view fertilizer alone as a financial proposition, that it would pay to sell the power at Muscle Shoals for use as power and take the money and buy coal and thus extract nitrogen from the air?

Mr. DENEEN. That would involve many questions. In the first place, the Associated Power Co.'s intend to manufacture fixed nitrogen largely by coal, coke, and other materials. They would utilize, if I remember correctly, about 3,000 horsepower for motive power. They would take very much less power than the other companies.

As to whether or not a higher bid could be obtained if the power were sold separated from the production of nitrogen, nobody can tell. The complaint until very recently has been that the bids are too high, and those who are circulating the propaganda that has been given out by persons directly interested in a financial way in this matter claim that the companies outdid themselves in bidding and were careless about the amount of the bids because, under the operation of the public utility commissions of the various States, it made no difference to them what they charged; they were entitled to a profit and that for that reason they bid too high. In the testimony given by Mr. Bell, of the Cyanamid Co., he stated that the water power at Niagara could be sold from $18 to $20 a horsepower, but that the power at Muscle Shoals would be worth very much less.

No one can tell whether or not a higher bid would be received if the power derived were divorced from the production of nitrogen. If, however, it were divorced from the manufacture of nitrogen, then the problem would come up as to how the money would be used. First, some have contended that the entire expense of these plants should be charged off; that that money be given as a bonus or a subsidy for the production of nitrogen. The bonus would have to be for a definite period, for no one would hazard an investment of that kind without knowing that the bonus would continue for a considerable time.

Again, it was urged that a bonus per ton be given, and that was discussed at some considerable length.

Again, it was stated that the farmers would not use the product, and that it would be necessary to send the county agents throughout the country to the farms. As there are three thousand and more counties in the country which have county agents, that would be a very expensive proceeding. So, from every angle it was looked at, it was considered a cheaper way to follow the directions in the concurrent resolution and also the policy of the country which was adopted 10 years ago.

Mr. NORRIS. When the Senator refers to the policy adopted 10 years ago, he means in the original act?

Mr. DENEEN. In the national defense act.

Mr. NORRIS. The Senator quoted from that act in the beginning of his address. The Senator, perhaps accidentally or by inadvertence, did not quote from the original act that part of it which says that when this plant shall be completed it shall never be leased to a private party.

Mr. DENEEN. If the bill now proposed shall be passed, that will be changed.

Mr. NORRIS. I understand that; but if the Senator is trying to carry out the original act in his proceeding, there is one part of the original act that he has not followed.

Mr. DENEEN. The national defense act applied to Nitrate Plant No. 1, which it is not considered any of these companies will operate. Nitrate Plant No. 2, which cost $67,000,000, was not mentioned in the national defense act, and it would not apply to it.

Mr. NORRIS. If the Senator will read the act, if he has it there, I will be glad to have him do so.

Mr. DENEEN. I do not have it here.

Mr. NORRIS. I think it will show that it applies to anything which may be done down there; that it applies to the use of the money for the purpose described in the act.

Mr. DENEEN. That is, as to the $20,000,000.

Mr. NORRIS. Yes; but there was afterwards appropriated very much more.

Mr. DENEEN. Under other laws.

Mr. NORRIS. I think the Senator will agree with me that there can be no doubt that the clause in the law to which I have referred applies to the steam plant, the water-power plant, and everything else at Muscle Shoals.

Mr. DENEEN. That law may be repealed.

Mr. NORRIS. Yes; it may be repealed; I admit that.

Mr. HARRISON. Mr. President, there is some question here about some new bid that has been made since the committee's recommendation. The Senator, as I listened to his remarks, did not state just what they did with reference to obtaining bids.

Mr. SACKETT. That is in the report.

Mr. HARRISON. I know it is in the report, but the speech of the Senator from Illinois will be read, and I should like to know just what effort was made to secure bids for this property.

Mr. DENEEN. We wrote to all those who heretofore had indicated any interest in the matter; we wrote to all of the producers of electrical energy throughout the country who produced in large amounts; to all those engaged in manufacturing fertilizer material; and, in addition, we wrote others who might use power—for instance, the International Harvester Co. and all the very large power consumers of the country—because we wanted to get a good bid. The names of those invited to submit bids are in the report; there are about 40 of them, if I remember correctly.

Mr. HARRISON. The committee did everything that was humanly possible to interest people who might bid on these properties?

Mr. DENEEN. Everything was done through publicity and the sending of letters and telegrams. Because of the limited time we sent telegrams and then followed them with letters. Everything was done that could be done to afford opportunity to bid.

Mr. SACKETT. Mr. President, the joint committee on Muscle Shoals, appointed under House Concurrent Resolution No. 4, Sixty-ninth Congress, brings forward for consideration of the Senate the bill, S. 4106, embodying the proposal of the Muscle Shoals Distributing Co. and Muscle Shoals Fertilizer Co.

The Senator from Illinois [Mr. DENEEN], as chairman of the committee, has made a complete exposition of the work done by the committee, the various negotiations that have enabled the committee to bring forward this bill, and the earnest work that was done by the membership of the committee in trying to arrive at the best proposal possible.

While the majority of the committee gives its recommendation to this proposal as the best received and the best it was able to obtain under the terms of House Concurrent Resolution 4, I desire to call the careful attention of the Senate to the effect of the restrictions on the bids which are contained in House Concurrent Resolution 4.

My study of the Muscle Shoals problem gives me a definite conviction that the interests of the United States will be better served if the present conditions of the resolution governing bids are discarded, the present bid rejected, and a new attempt made to work out the problem on a different basis.

A matter of prime interest in the Muscle Shoals matter is the dedication of the whole huge expenditure to the furtherance of agriculture. This primary purpose is contained in the original and other appropriations that made possible the building of the dam and nitrate plants. I speak of agriculture only, because, if the production of nitrogen in time of peace is amply provided for, there will be opportunity to take over the producing plants in time of military necessity. It automatically follows that the country will secure the needed supplies of nitrogen for Army purposes.

The building of the dam, the creating of the great power houses, and the supply of electricity now available are, under the original plans, incidental to nitrogen production. They were the result of the then state of the art of manufacture of nitrogen from the air, which required large volumes of electrical energy at the lowest posible cost of production, best achieved by the utilization of water power.

The nitrogen processes as then understood were dependent on electrical energy, and required a water-power plant for producing electricity in direct connection with the two plants erected for nitrogen fixation. Thus, the entire expenditure at the shoals for all purposes was impressed with the direct obligation that it was earmarked by the Congress as an aid to agriculture.

House Concurrent Resolution 4 recognizes such dedication to agricultural uses when it says that the lease "shall safeguard the production of nitrates and other fertilizer ingredients," and "shall provide for the production of nitrates primarily and incidentally for power purposes."

Such direct dedication would seem to impress itself (however the plant may be operated) not only upon the physical properties but upon any financial revenues derived from the operation of those properties.

It would therefore seem that if greater benefits to agriculture would accrue from a lease in some form different from that contemplated in House Concurrent Resolution 4, action by the Congress that would secure such greater benefits is fully justified and carries out the intent of the original investment.

The accepted advantage to agriculture lies in the fixation within the United States of ample quantities of nitrogen and its combination with phosphoric acid and potash in proper chemical proportion to form a concentrated fertilizer. It is the popular understanding that such mixture will contain all essential plant foods; that it will be produced at so much less cost per unit of combination than the present commercial product that it can be profitably and generally used upon the farms to stimulate all crops.

The efficiency of the stimulation, or, rather, what its use would mean in increased production per acre in different crops, has been largely shrouded in doubt through lack of experience. Quite recently, however, studies have been completed of actual experiments covering a long series of years, both in this country and in England, that hold a promise of so great an increase in the wealth of crop production through use of fertilizer materials that this country can not afford longer to neglect their widespread use. To say it may double production per acre on wheat and corn lands may sound extravagant, but such increases lie within the realm of probability. The records of such experiments are readily available in recent publications of the Government and warrant urgent effort to make quickly available cheap supplies of this concentrated material.

I desire to bring before the Senate for its consideration the thought that increasing knowledge has brought a change in methods of nitrogen fixation and that the development of the art constantly taking place leads inevitably to the conclusion that the electrical requirements in manufacture have already become materially less per unit of nitrogen under every known process of manufacture, and, further, that the tendency in securing economies in production is away from the use of electric power entirely; in other words, that nitrogen will be produced cheaper and with less restrictions under the synthetic methods which have for their base the gasification of coal, as compared to the methods induced by the tremendous heats produced in electrical furnaces.

Under the present concurrent resolution we are seeking leases of the whole Muscle Shoals properties just at a time when the forms of manufacture are in development stage, when newer methods already indicate the abandonment of electrical power in favor of the direct utilization of coal. As yet these chemical methods and processes are far from perfection and broad opportunities are open to develop further the known chemical processes of manufacture to cheapen cost of production, and perhaps other processes not now in existence. This appears to be true in fixation of nitrogen, and equally as true in the manufacture of phosphoric acid, one of the constituent plant foods that should be largely used in scientifically composed concentrated fertilizers. These changes leading to economies will probably come rapidly. Frequent and costly changes in plant facilities will probably be necessary to induce the economies originated and discovered.

Plant obsolescence becomes, therefore, a serious factor in the calculations of any industrial concern that undertakes large-scale production of nitrogen from the air and the manufacture of chemical fertilizers of the concentrated type. This obsolescence will add materially to the financial obligations of any bidder for Muscle Shoals shouldering the fertilizer production. One or more scrappings of the major portions of the manufacturing machinery, plant, and process may result, causing large financial losses in the changes required.

For these reasons any lessee of Muscle Shoals properties who is required to assure the development of the new fertilizer business must necessarily visualize the financial responsibilities and losses in plant and equipment likely to be encountered. He must govern any bid submitted for the water-power properties with a view to meeting recurring financial obligations.

Every contractor must include provisions to meet unknown exigencies. Where they are of such moment as are indicated in the novel and undeveloped processes now coming into use throughout the world for producing nitrogen from the air and the required prosphoric acid, a bidder for Muscle Shoals must make himself safe. It is fair to assume he will load his bid for power facilities with a sufficient margin to cover his costs in fertilizer development, because through his guarantee of performance his failure in nitrogen production will cause him to lose his valuable power rights.

House Concurrent Resolution 4, by coupling the fertilizer obligations with the lease of the water power, deprives the Government of the opportunity of securing the highest return in the way of rent from the valuable water-power rights at Muscle Shoals. It is no answer to say that increase in the bid price per horsepower, by reason of separation from the nitrogen production, will raise electrical prices to the user. Through the loading of bids because of the unknown contingencies the slack between the two specifications is already taken up in the bid at issue in favor of the contractor himself. Separated from the requirements to manufacture nitrogen from the air, the Government could look forward confidently to greater returns from its power rights, without causing increased prices to electrical users. In the specifications for a lease of water power only, arrangements could be made for a series of bids from interested contractors that would be strictly comparable with each other, and the relative values of which could be readily determined.

Any call for bids for a lease on the water-power rights should contain a recapture clause for all electrical energy that may be required for Government needs in the Muscle Shoals territory either in general industry, in the manufacture of fertilizer ingredients, or for purposes of military necessity. Such recapture should be had at a price per horsepower equivalent to the price paid by the contractor under the lease.

The acceptance of any bid on the present combined basis, with all its attendant capital uncertainties, has a further result disadvantageous to the Government. The factors of safety necessarily included in the bid to cover these unknown expenditures may only be called upon for a few years, probably not more than five or ten, ere the process and the plants are worked out and fully developed. And yet this time element is equally as uncertain as finance. The new methods apparently are proceeding rapidly, and yet the lease, with its stated return per horsepower to the Government, lasts for 50 years. With the process developed, and costs put upon a firm basis, there would no longer be any need of considering and providing for unknown financial needs; yet the subsidy or subvention which the lessee will provide for in his present calculation will run to his advantage for the entire 50 years of the lease.

To avoid such a subsidy to a lessee when accepting his bid requires a complete change in the specifications of House Concurrent Resolution 4, under which bids are asked for—requires a rejection of the present bid of the Associated Power Co., and a different vision of the method to be adopted for carrying out the principle of the dedication of the Muscle Shoals development to provide benefits to agriculture. That dedication can as well attach to the proceeds to be derived from the lease of Muscle Shoals as to the physical properties themselves.

The interests of agriculture in the production of fertilizer at the lowest possible cost can best be attained by leasing the water-power facilities separately at the highest market price, and using the funds derived from the lease through another agency to develop the manufacture of nitrogen and other fertilizer ingredients. In the somewhat primitive and undetermined processes now in use, as yet experimental when we consider the end to be attained, I have reached the conclusion that the operation of the plants and expenditure of the money received from a shoals lease of power rights should be undertaken by a Government agency or by an agency of the Government in cooperation with the best private business management.

It has been a serious matter for me to reach such a conclusion, for my entire theory of the Government's position in industry is away from any interference or competition with private business initiative. To me extraordinary circumstances alone can justify the legislative branch of the Government in encouraging any measure of usurpation in the realm of commercial activity.

The essential elements, however, of the present problem are of such a character. They incline me strongly to the belief that through Government cooperation alone can results be obtained. Scientific agriculture in America calls loudly for revitalizing the land depleted in many sections by continuous plantings of the standard crops of the district. The importance of applying chemically prepared fertilizer containing the very substances withdrawn from the soil by continuous cropping justifies even extreme measures. Its valuable contribution to agricultural prosperity is so essential that most any radical departures from normal Government functions are easily justified.

The importance of restoring soil fertility admits of no avoidable delay, either in providing the remedy or in securing its prompt adoption and use on the farms. The present cautious experimentation by private enterprise in the fixation of nitrogen and production of phosphoric acid will undoubtedly in time solve the present difficulties and give the desired products at prices that will permit its general use by agriculture. But in view of the present costs and uncertainties no accurate estimate of the time required is possible.

Time, however, is an essential element in providing the needed supplies, and it is unwise to anticipate any large-scale efforts to produce the product until the process and plant have reached a condition that may be approved in business practice.

On the other hand, the establishment by the Congress of a Government-financed organization makes possible a large-scale operation to provide an ample supply of chemical fertilizer concentrated in form with the greatest promptness, and at the same time through experience and experimentation to secure constantly lowering prices of the product.

It is not my purpose to advocate merely an experimental plant under Government operation at the Shoals, but a genuine effort to provide the product in quantity. The Government should be ready to enter the field at the present stage of the art on at least as large a scale as the present bidder has shown itself willing to do under the lease reported to the Senate by the committee. The valuable results to agriculture as a whole justify the Government in assuming the risk of possible heavy losses due to obsolescence and rapidly changing methods of production. It is essential to the success of the effort to give agriculture the full benefits of the new form of fertilizer, to which it has looked forward expectantly since the inception of the Muscle Shoals project, that the present costs of manufacture be materially reduced. A low cost price is the medium of its assurance of general use. The probable great expense involved in attaining low cost, added and recouped in the selling price of the product, necessary in a private commercial enterprise might render the price of sales prohibitive. Yet under a plan of Government manufacture it can be treated by the Government as a development cost.

You can not expect private enterprise to provide the needed nitrogen in quantity at present, because the same intrinsic difficulties of capital investment and loss that face any Shoals lessee under House Concurrent Resolution 4 are a serious deterrent to the private manufacturer. The very problem now under discussion—the disposition which the Government is to make of Muscle Shoals—has delayed private-capital investment in this industry on a large-scale basis. People do not know how the Congress will treat its dedication of these properties to agriculture; that is, whether it will operate them, or insist on their operation on a commercial basis of profit, or be induced to an operation at a loss for the further benefit of the farms. To compete with the former should become attractive to investors, but at least any heavy private investment waits on the settlement of this question.

Again active Government participation is not only indicated, but seemingly necessary for a considerable time, in accentuating sales of chemically prepared fertilizer in concentrated form. Any such new and radically different methods introduced into agriculture meet a sales resistance that is formidable and difficult to overcome. That is particularly true in the introduction of novelties in farm husbandly; especially is it true in sections where no fertilizer has been used. The use of concentrated fertilizer at materially less cost per pound of plant food than the present commercial product makes possible its use in all the great crops like wheat and corn. The suggestion of its use with the promise of largely increased yields per acre meets at once a skepticism on the part of the user—a skepticism that is intensified when applied to agriculture, the most conservative business of mankind.

The introduction of the product to general use must overcome the sales resistance by costly processes of experiment. The effort must be persistent and widespread. The experience of England, France, Germany, and other continental countries, where the adoption of concentrated forms of fertilizer has progressed much further than in America, already shows the distribution end of the business the most difficult to achieve. The recent conventions of their manufacturers place sales and adoption of the general use by agriculturists as the problem most vital to their minds.

The sales-introduction feature, whether by private capital or by Government agency, will be found our most difficult problem. The prompt and general use of the product in America will call for intensive selling campaigns carried on under the most favorable auspices. We should look forward to large and generous expenditure of funds to secure its introduction in commercial life, and perhaps be prepared to meet opposition from established commercial fertilizer fields. There is indicated not only the need of ample capital but the use of facilities of experimentation and experience possessed now only by the Government itself. The country is fortunate in having at its command, to throw into the distribution problem, the facilities and reputation of the Department of Agriculture. The close contacts of the department with the rural population, its use of visible experimental farms, its reputation among farmers of former successes in the introduction of new methods, promise the best opportunity of rapidly accomplishing the general use of the new concentrated product, and it can more readily be called upon if the Government itself undertakes the development of the whole problem.

The probable great expense involved in introducing the use of the material upon the numberless farms—the missionary work of sales—if added to and recouped in the selling price of the product, would render the price of sales prohibitive. And yet it also can be treated as a Government development cost.

It is these two development costs, in production to secure economies and in widespread selling efforts to induce general use, that differentiate the Government entrance into this commercial field from other instances of Government competition in commercial activities.

The business can not succeed with these two extraordinary costs added to the sale price of every ton. Without making such addition private enterprise could not give the problem proper and prompt solution. It was to overcome these very difficulties that the Congress impressed the Muscle Shoals development with its dedication to agricultural purposes.

While both in development of production costs and in the introduction to general use, the financial power and authoritative position of the Federal Government can be of the greatest value, the field is so large and the areas of use so varied that its ultimate manufacture and sale by private enterprise is imperative.

The soil depletion of America has now become a poignant issue. The availability of new virgin soil with its productivity unimpaired has, in the past, made possible the maintenance of average production per acre of all crops at a relatively constant level. But public lands of rich character are now exhausted, and constant cropping is rapidly making itself felt in productivity. New uses of machinery on the farm, soil study, seed selection, and other modern methods introduced by Government aid and education have in late years only been able to hold the average production per acre level. Continuous cropping causes the withdrawal of the essential elements of crop production from the soil. Varying calculations indicate a loss of from two to three million tons of nitrogen annually from American farms. If not partially replaced, this loss within a short time must make itself felt in decreased rate of production and constantly increasing farm costs. And yet it must be borne in mind that the quantities of nitrogen that can be produced under any operation contemplated at Muscle Shoals, which has by common understanding been placed at around 40,000 tons per annum, is but a fractional part of American farm requirements.

Authorities earnestly seek the restoration of at least 500,000 tons annually. It seems that the Government can best serve the needs of the farm in the replacement of nitrogen and other essential plant-food elements in the soil by expending its great resources of money and authority in providing the immediate needs in developing the lowest-cost methods of production and introducing the general use of the product.

By supplying the necessary capital investment in plants and the use of large revenues to be received from proper lease of the water-power facilities at Muscle Shoals, already impressed with a trust for the purpose, in carrying forward the development of low-price production and popularizing the use in revitalizing the soil, I feel that the Government, and the Government alone, is in a position to enter the field of nitrogen fixation in a way that will prove a real benefit to the agricultural interests of the country. It can blaze the trail of production and use.

By maintaining Government production and sale upon a commercial basis of profit over actual cost of production and sales, private initiative will be encouraged to enter the prepared field of the new enterprise.

The fruition of this encouragement should result from a strict limitation of Government participation in the industry, first, to the Muscle Shoals district and, second, to providing the necessary supplies of the product only until ample ingredients from private sources are available. In its future growth through private industry reliance may be had upon a highly competitive situation to maintain the proper levels of selling price.

By perfection of the so-called synthetic process, nitrogen may be manufactured in widely scattered locations, and wherever coal is available constantly decreasing costs will appear upon the farm through lower freights for the shorter hauls from new foci of manufacture. In such bulky materials freights are an essential element of costs. After the great expenditures by the Government in developing both the production and distribution ends, new locations of manufacture are pe-

culiarly the realm of private enterprise. To that end far-visioned manufacturers, and users as well, should welcome the proposed excursion of the Government into this field of commerce.

This suggestion of Government operation or control is not without ample precedent in recent history. Limited as it is to meeting a real need of the entire agricultural population, in a matter which calls for immediate solution, a need which under normal business growth can not reasonably be met, at least for a considerable period of time, this suggestion has direct analogy to the Government operation of the barge systems of the lower Mississippi and Warrior Rivers.

There, also, Government alone was indicated as a successful operator. The field was not sufficiently attractive to induce large-scale operation by private capital. The benefits to be derived were visioned by the Congress to outweigh the objection of Government competition with privately owned industry. Through the medium of a corporation governmentally owned that particular field of river transport has been developed from practically no traffic to the movement of a million tons of farm products through the year. The development was costly, the initial losses were wholly uninviting to private capital; but the five-year operation by the Government has demonstrated a rapid growth in the demand for a service which is being accomplished at considerable saving to the producer and profit to the operator.

Development cost so great as to prevent legitimate business expansion under private auspices in an essential industry may be considered a worthwhile public burden which the Government is justified in assuming through operation in the ordinary commercial fields.

For these reasons, based upon such study as I could give the Muscle Shoals problem since the end of the recent session, I feel that the bid now before the Senate, while the best in every sense received under House Concurrent Resolution 4, and while it meets my approval, if the conditions of that resolution must stand, does not in the broader sense meet the needs or the best interests of the people. I favor further action by the Congress along the lines I have indicated, through the creation of a special committee empowered to study the entire field. It must be unembarrassed by conditions coupling together such dissimilar industries as the operation of a public electrical utility and the manufacture and use of fertilizer ingredients have now become in the light of modern knowledge.

I may add that one of the greatest deterrents to the making of these suggestions lies in the danger of delayed action. Agriculture needs immediate congressional solution of this Muscle Shoals nitrogen question. If the whole question be referred again to committee, I give notice that the situation warrants extreme measures in overcoming any unnecessary delay of action.

Mr. KING. Mr. President, will the Senator from Kentucky permit a question?

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Utah?

Mr. KING. Owing to committee engagements I have been unable to hear all of the speech from the Senator from Kentucky but, as I understand his position, it is that the Government should manufacture fertilizers at Muscle Shoals and provide a selling agency for the disposition of the same; that because the costs of manufacturing fertilizers at the place mentioned and the distribution of the same will be very great, private capital will not be warranted in undertaking the operation of fertilizer plants at Muscle Shoals; but that the United States, because it does possess funds and can meet all expenditures resulting from the production of nitrates and other fertilizers, should enter upon the task of production and distribution and in pursuing that course, private capital may later be induced to invest in the undertaking. Have I correctly interpreted the attitude of the Senator?

Mr. SACKETT. Yes, in a measure; but I would not put it upon the Treasury of the United States except in so far as the Congress has already indicated that the Muscle Shoals development is primarily for agriculture, and that it was willing at the time it made the investment to use it for that purpose. I feel that the revenue which might be derived from that source, in line with the new knowledge, could be applied to this very purpose, and that within a comparatively short time, I hope, is brought down to a level basis of cost and its introduction into private enterprise will be induced to enter the field as soon as it commercial life has been assured, because it will become just as valuable a business for private enterprise as the ordinary commercial product is to-day.

Mr. KING. May I inquire of the Senator if bids have not been submitted to the committee having the matter in charge, or to some agency of the Government which controls Muscle Shoals, which call for the leasing or the purchase of Muscle Shoals, and if such bids do not contemplate that the successful bidder will immediately enter upon the completion of the project and the manufacture of fertilizers to meet the needs of the people?

Mr. SACKETT. That is the effect of the bids received and of the bid which has been recommended by the committee for acceptance. The point I wished to make was that any contractor entering that joint field, with the uncertainties of the manufacture of nitrogen and the developments that are going on to-day so rapidly in the business, will necessarily have to scrap his plant perhaps more than once, a very expensive plant costing $10,000,000 to $20,000,000, provided a cheaper method of manufacturing is developed by the chemists, which is not at all unlikely, and that he necessarily in bidding for Muscle Shoals has to proceed with his vision on those uncertainties before him, because if he were to fail to make the nitrogen proposition succeed as to fertilizer, he would lose his valuable water-power rights. He has to protect himself against these extraordinary expenditures, which he can not look forward to to-day with any degree of certainty.

Mr. KING. If the bid, as appears upon its face, is fair and reasonable, based upon the scientific knowledge which we now possess and with which the committee is familiar, ought we to anticipate these multitudinous changes to which the Senator has referred and say we will reject the bid because we want to protect the bidder against an unwise investment?

Mr. SACKETT. No; not for that reason, but, as the Senator knows, in the last three years the manufacture of nitrogen has turned practically away from the use of all electrical power as its principal element. The new plant, as was brought to the attention to the Senate a few moments ago by the Senator from Nebraska [Mr. NORRIS], is the very latest proposition on the subject, is not situated where there is any water power. It is derived from the gasification of coal, and the by-products enter into the problem to help reduce the cost of production. It is only by constant reduction of the cost of production of this material that we are ever going to be able to make it so cheap that it can be used on all the farm lands of the country. We have to use every kind of device to arrive at that low cost of production. I think when we consider that great change in the last few years we are warranted in saying that the changes of the next two or three or five years are going to be equally as expensive.

Mr. KING. Is it the Senator's position that the Government of the United States should make these expenditures?

Mr. SACKETT. Yes; and charge it to development cost, just as they do the cost of the development of the rivers of the country for the purpose of carrying the produce of the country. We could not charge the cost of developing the rivers to the rate per ton on the rivers to-day and get away with it. We could not afford to carry freight in that way. Neither can the manufacturer, as I see it from such experience as I have been able to have in business heretofore, be able to charge to the rate per ton or the selling price per ton of the product these great expenditures of obsolescence which are bound to come.

If the Government will treat it as a development cost in order to bring about a great thing for the whole agricultural community, a thing which probably will go far toward reducing the cost of production of every kind of produce on the farm and enable them to compete with the world markets, I believe it is justified in treating that as an element of cost and not adding it to the cost of distribution of the product.

Mr. KING. Just a word in reply to what the Senator from Kentucky has said. It seems to me that he wants to project the Government into an enterprise which many Senators I believe do not approve of, and which I think the majority of the American people do not approve of. He seems to justify that position upon the ground that there will be losses incident to the development of Muscle Shoals which it is better for the Government to meet, and charge to construction as a mere matter of bookkeeping, rather than to have private enterprise incur the losses incident to the development of Muscle Shoals.

Speaking for myself, it seems to me that with the testimony which has been taken during the years this matter has been before Congress we ought to be prepared to act upon the proposition now. So far as I am concerned I am willing to act on a proposition which calls for the sale or for the leasing of the Muscle Shoals project; I should like to get the Government out of the business, because the evidence before us relating to governmental activities in business matters indicates the utter incompetency of the Government to deal with this important enterprise.

Mr. McNARY. Mr. President, early in the day I stated that at the conclusion of the address of the Senator from Kentucky [Mr. SACKETT] I would move to refer the bill, S. 4106, to the Committee on Agriculture and Forestry. I do not want to limit debate or circumscribe any proper discussion of the matter. It is a large subject and should be fully explained and debated. The Senator from Alabama [Mr. UNDERWOOD] wants to be heard, though not to-day. I simply want to state at this time that at the conclusion of legitimate debate upon this question I shall move that the bill be referred, with the report, to the Committee on Agriculture and Forestry.

Mr. HEFLIN. Mr. President, I am not going to discuss the Muscle Shoals project at great length this afternoon. The question is not now before the Senate. The Senator from Illinois [Mr. DENEEN], the chairman of the joint committee of the House and of the Senate to deal with the Muscle Shoals matter, has made a strong, able, and lengthy speech presenting his views. The junior Senator from Kentucky [Mr. SACKETT], a member of the committee, has also spoken and has presented some strong views from his standpoint. I regret that he seems to differ from the Senator from Illinois and myself as to the course that should now be pursued with this measure.

A report has been made by the joint committee, four members out of the six voting to accept the bid of the Southern Power Co., I voting to accept the bid of the American Cyanamid Co., one member voting against both. The bill has been reported from the joint committee to both Houses; it is upon the calendar in both Houses; and it does seem to me sheer foolishness to take the bill off the calendar and refer it back to the Committee on Agriculture and Forestry after the Senate and House of Representatives have passed a concurrent resolution creating this joint committee to take bids and report them to the two Houses of Congress. That committee sat for 30 days; we invited bids from every section of the country. We obtained about 10 or 11 bids, but only three or four were worth considering. The matter finally got down to these two bids, the bid of the American Cyanamid Co. and of the Southern Power Co.

Those bids are before the Senate. Hearings were had before our committee. Those hearings have been printed. Other bills have been heretofore introduced. Hearings at length have been had before the Committee on Agriculture and Forestry. We have volume after volume of testimony over in the committee. It seems to me that every phase of the question has been gone into time and time again at great length.

Can we dispose of this question? Is the Senate competent to dispose of it? This Muscle Shoals matter has become the laughingstock of the country. The people are talking about the inaction of the Congress and asking when will Congress dispose of the Muscle Shoals matter. Let me read a line or two from a paper, the Florence (Ala.) Times-News, which is published right in the vicinity of Muscle Shoals. The article says:

> People of the Muscle Shoals district and of the South and the farmers of the Nation have a very good right to feel much aggrieved at the continued delays on the part of the Government in settling the Muscle Shoals question, in view of the tremendous waste and loss which is occurring constantly under present conditions. The equipment is installed at Wilson Dam for the generation of 260,000 horsepower, and the power from these generators is being leased to the Alabama Power Co. for distribution according to their needs. According to information given to the writer by employees at Wilson Dam, the maximum amount of power that this company's transmission lines can carry from the dam is 100,000. One day during the past week the company was using 80,000 horsepower, although the statement was made to the writer that it was more customary for the company to take only small amounts, perhaps 5,000 horsepower, or up to 20,000. The waters of the Tennessee River are going to waste as far as the balance of possible power is concerned, and the gigantic structure reared by toil of seven years is rendering little service to the people whose money was used in building it. But this is not all of the story as it actually exists now. There is the great nitrate plant, which cost even more than Wilson Dam, which is standing idle while American farmers are crying for relief from high fertilizer costs and the Government is paying out tens of thousands of dollars annually to keep the plant in good condition.

Mr. President, I simply read that to the Senate to bring to the attention of Senators the true situation that exists regarding Muscle Shoals.

I know that there are influences at work here to prevent early action upon this matter. Different power companies are moving in mysterious ways about the Capitol in order to prevent action. They would like to have this bill referred back to the Committee on Agriculture because they think if they could get it back there we could have hearings for another year or two and go through the farcical performance of pretending to try to do something about Muscle Shoals.

Congress is tired of Muscle Shoals; the country is tired of Muscle Shoals. We are not acting in this matter in an intelligent and businesslike way. This project has been completed; the water is going to waste. There are 18 big wheels there, we are told, ready to operate, while only 4 of them are being used, and the Government is being paid a pittance for the use of the dam at Muscle Shoals. Senators, that is not a businesslike way in which to handle the Government's business. It is up to us to dispose of this Muscle Shoals project.

I intend to see, whoever gets it, that there shall be an amendment to the bid making it absolutely imperative that they make fertilizer or forfeit the lease.

I think the American Cyanamid Co. bid is the best. It proposes to make 40,000 tons of fixed nitrogen provided the Government will build Dam No. 3 and Cove Creek Dam. Of course, that will cost $50,000,000 more, but the Government ought to expend it. The property will belong to the Government and the construction of these two additional dams will make the river navigable there for 20 or 30 miles. So much for that.

We already have the cyanamid plant at Muscle Shoals. It has actually made fertilizer material. Fertilizer thus produced has been used upon the fields about Muscle Shoals; other fertilizer has been used alongside of it, and the fertilizer derived from the Muscle Shoals plant produced a greater yield than the other fertilizer that was used there. So we have not only made the fertilizer but we have proven that it is good and has been successfully used on the farms in the region of Muscle Shoals.

Mr. President, I am going to refer to another matter. I mentioned it once before and I regret to have to do it again. There are propagandists in this city who are living off Muscle Shoals. There are probably 25 or 50 of them. They are living well off Muscle Shoals. So long as Muscle Shoals is not disposed of they collect money out of the Tennessee Valley; they get money out of my State; they get money out of the State of Tennessee; they get money from other States in the Tennessee Valley for carrying on their propaganda.

They lead various groups to believe that they are just about ready to pull off another deal of some sort up here on the Muscle Shoals project and they get the people down there excited, and they are contributing money to them to put this thing over or that thing over. In the meantime a large part of the dam is idle, the water is going to waste, the Government is losing money, the farmer is getting no cheap fertilizer, and the project is not being disposed of.

For one, I am ready to act. I am tired of these propagandists working a matter right up to the point where it is ready to be disposed of, and then backing off and coming in with a new proposition in order to get up more propaganda, and bring in more money for themselves, and continue their propaganda work here in Washington.

Mr. President, I am reminded of the story of the old negro who went into town with his landlord. The landlord had a fine pair of mules, and an automobile ran into the hip of one of them and broke his leg. The farmer looked at him, and said: "It is a pity to kill a fine mule like that." The negro said: "You ain't a-gwine to kill him, is you?" The farmer said: "Of course. You always kill one when his hind leg is broken." The negro said: "Don't kill him; sell him to me." "Why," the farmer said, "you can't make a crop with him." The old negro said: "No sah; that ain't what I want him for. I want to mortgage him." [Laughter.] He just wanted to mortgage him, to get money on him. He was not going to tell anybody his leg was broken. He was just going to mortgage a bay mule named Pete, 5 years old.

These propagandists just want to keep Muscle Shoals dragging along, to mortgage it, to keep it here. Why, the minute we dispose of it, these gentlemen here in Washington will be flushed like a covey of birds. They will be out of a job. They will have to go home or start something else.

Surely the Senate does not intend to prolong this matter of dealing with the Muscle Shoals project—a matter that is already completed, a matter that is being leased now, year after year, to the Alabama Power Co. for a small sum. Why not put that whole river to work? Why not let the Government draw rent for all the power that is available there? Why not begin to set up the machinery to make cheap fertilizer for the farmers?

Surely it can not be that the Fertilizer Trust is so powerful that it can take a hand in this propaganda and delay action. Surely it must not be admitted that the power companies, at loggerheads with each other, can have somebody take one angle and somebody take another, and another still another, and delay the matter, and never permit us to reach an agreement at all.

Mr. President, it is a reflection upon the Senate that it can not get somewhere with this matter. Not only that, Mr. President, but as long as these propagandists can get money they do not want this matter disposed of at all. I am reminded of a story I heard the other day about the administrator of an estate in New York. He was winding up the estate of a certain man, and they asked him how much the estate was worth. He said, "$50,000." They said, "How much do you get a year for administering the estate?" He said, "$10,000." They said, "How long will it take you to wind up the estate?" He said, "Five years." [Laughter.] So, Mr. President, just as long as these Muscle Shoals propagandists can draw thousands and tens of thousands of dollars out of the Tennessee Valley, they will oppose any plan that will dispose of the Muscle Shoals project.

These propagandists who are here ought to be driven out of the Capitol. They are moving first at one end of the Capitol and then at the other. They are injecting their poison in various ways. They do not want this project disposed of. They want to keep it pending, and as long as they do that they can ride in limousine cars in the city of Washington; they can whirl around the Speedway in magnificent fashion; they can have big dinners, as they do; and they can live in luxury, as they do. But what about the farmers in the West who are eking out a miserable existence, and the cotton growers of the South who are selling their produce far below the cost of production, and who are crying out for aid at this hour?

Mr. President, if there ever was a time when the Senate should wake up and go to the rescue of the producing classes of America, that time is now. What excuse can there be for delay upon this question? Is the plant completed? It is. Is it ready to use all this power? To be sure. Are people ready to bid on it? Yes. There are two bids pending—three, in fact. Well, why not put it to work? Why not accept one of them or dispose of it in some other way? Why refer it back to a committee? Is that for the purpose of pigeonholing it? I rather think it is.

I hope that the Senate will not act favorably upon the motion of the Senator from Oregon [Mr. McNARY], when he makes it, to refer this measure back to the Committee on Agriculture and Forestry. There is not a single new phase of the subject. There is not a scintilla of reason for getting new testimony. All of it has been thrashed out. The volumes have been printed. They are here, and the measures are on the calendar in this House and in the other House. The time for action has arrived, and I do not want to see it delayed beyond this session.

### APPROPRIATIONS UNDER MATERNITY ACT

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 7555) to authorize for the fiscal years ending June 30, 1928, and June 30, 1929, appropriations for carrying out the provisions of the act entitled "An act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes," approved November 23, 1921.

The PRESIDING OFFICER (Mr. SMITH in the chair). The Secretary will state the pending amendment to the bill before the Senate.

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

The PRESIDING OFFICER. The Secretary will call the roll.

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

| | | | |
|---|---|---|---|
| Bayard | Ferris | King | Reed, Pa. |
| Bingham | Fess | Lenroot | Sackett |
| Blease | Frazier | McKellar | Schall |
| Borah | George | McMaster | Sheppard |
| Broussard | Gillett | McNary | Shortridge |
| Bruce | Goff | Mayfield | Smith |
| Cameron | Gooding | Metcalf | Steck |
| Capper | Hale | Moses | Stephens |
| Copeland | Harris | Neely | Stewart |
| Couzens | Harrison | Norris | Trammell |
| Curtis | Heflin | Oddie | Tyson |
| Dale | Howell | Overman | Wadsworth |
| Deneen | Johnson | Pepper | Walsh, Mass. |
| Dill | Jones, Wash. | Phipps | Walsh, Mont. |
| Edge | Kendrick | Ransdell | Wheeler |
| Edwards | Keyes | Reed, Mo. | Willis |

Mr. HARRISON. I desire to announce that the Senator from Virginia [Mr. SWANSON] is necessarily detained on official business.

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

### PROHIBITION OF POISONOUS GASES IN WARFARE

Mr. RANSDELL. Mr. President, I understand that the chairman of the Foreign Relations Committee intends to move to refer back to his committee the gas-warfare measure, known as the Geneva protocol. I wish to make a few remarks upon that measure, and would like to have attached to and made a part of my remarks a letter dated the 29th of November last from Mr. Charles L. Parsons, secretary of the American Chemical Society, to Hon. Frank B. Kellogg, Secretary of State; also the reply of Mr. Kellogg addressed to Mr. Parsons on the 7th of this month, and the response of Mr. Parson to the Secretary of State dated the 8th instant.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit A.)

Mr. RANSDELL. Mr. President, I wish to say that I am very much opposed to this proposed protocol. In my opinion it would be extremely unwise for us to interfere in any way with the use of noxious gases in warfare.

I have heard more or less said about the inhumanity of gases in war. The word "humane" has been mentioned by several Senators in connection with war. Mr. President and Senators, that word has no connection with war. War is atrocious, cruel, brutal. There is only one word in the whole English language which in any way describes war, and that word is "hell." Nothing else describes war. When we speak of a weapon of war as being "humane" or "inhumane" we are speaking foolishly, to say the least.

If we may believe the testimony of those who know about gas as a weapon of war, it is much more humane than bullets and bayonets and explosive shells of every kind and sort.

The evidence so eloquently presented to this body several days ago by the senior Senator from New York [Mr. WADSWORTH] and the junior Senator from Pennsylvania [Mr. REED] indicated that the percentage of deaths resulting from gas was 2, as compared with 24 from the other weapons of war. Twelve times as many deaths occurred in the Great War from the use of the other weapons as from the use of gas.

You will note that I said deaths; not so-called casualties. There is a vast difference between casualty and death in warfare. There were a great many casualties resulting from gas, but the men were merely put out of commission for a few hours, or, at best, a few days, or a few weeks. They did not die, as did those who were wounded with bullets, bayonets, shells, or submarines. So, if we consider the humanity of the matter, gas is much more humane as a war weapon.

A great deal has been said by sentimental people about the awful atrocity of gas. In the fifteenth century the same was said about gunpowder. Many tried to prevent the use of gunpowder in war, and there are some sentimentalists who will try to prevent the use of anything and everything in war.

Mr. President and Senators, what is war? It is an attempt of one nation to overcome another, just as between private persons it is an attempt of one man to conquer another. Nations, as individuals, are governed by a law of nature which we call the law of self-defense. It is a law of nature, the highest of all laws, for me, when my life is assailed, to repel the assailant by any means and every means in my power, it matters not what. At such a time life is the most precious thing of all to me, and when some one essays to take my life, I do not stop to consider what weapons I shall use in defending it. It is the end to be attained, the saving of life, my self-preservation, and not the means of attaining it that interests me and controls my actions.

The same is true of nations. When the life of a nation is assailed, that nation, following the universal law, is going to adopt every means in its power to defend itself. We had The Hague treaty prohibiting the use of gas in war; but that treaty was violated by Germany, and just as quickly as the other nations could follow the lead of Germany, they also, in self-defense, and rightly, too, adopted chemical warfare as their weapon. No one can criticize them. They were forced to it. So in the future we are going to be forced to this method by some country which will not follow any convention we may make.

Mr. President and Senators, I have said that gas warfare is more humane than other methods; but suppose some potent lethal gas could be discovered which might be poured upon great cities like Paris, Berlin, London, New York, Yokohama from flying machines away above the earth—so far above the earth that they could not be seen—and the result of that gas should be to destroy every man, woman, and child in those great cities, or in some one or more of those great cities.

Suppose we knew that there was such a gas in existence. Do you imagine any country would go to war? Surely not. Fear would deter them. The surest means of preventing war would be the development of such a weapon as that—one that would make it infinitely more horrible than it is now. But we have no such weapon. There is nothing comparable to that in existence. We have had novelists and dreamers tell us about great discoveries, about shooting bolts of electricity for miles, destroying thousands of men, aye, hundreds of thousands,

and the same dreamers foretell such a gas as I have described. But it has never been developed yet, and I doubt very much whether it ever will be developed.

There is one thing in connection with this gas measure that I wish the Senate to consider seriously; that is, that there is no more important industry in America, or in the world, than organic chemistry. We need organic chemistry developed to the highest degree to produce fertilizers for agriculture, drugs, and medicines for sick human beings, dyes and many other things in commerce. It is a wonderful science, and along with the development of innumerable useful things comes the manufacture of material which can be readily converted into weapons of war, just as the Germans converted their great chemical dye works into producers of war materials. We should encourage those chemical industries in every way, and it certainly would discourage them if we should ratify any such protocol as this.

Mr. President and Senators, I do not care to occupy the time of the Senate longer. I wished to express my idea about this measure in a few words, and to say that in my humble opinion the resolution should be sent back to the Committee on Foreign Relations and buried so deep it would never appear before us again.

Mr. BRUCE. Mr. President, may I ask the Senator from Louisiana whether he has any reason to think that this protocol will be brought to the attention of the Senate again?

Mr. RANSDELL. I have none in the world. I hope sincerely it never will come again, but before it went to the committee I merely wanted to say how I felt about it.

EXHIBIT A

(Copy of letter sent to Secretary Kellogg)

AMERICAN CHEMICAL SOCIETY,
OFFICE OF THE SECRETARY,
*Washington, D. C., November 29, 1926.*

Hon. FRANK B. KELLOGG,
*Secretary of State, Washington, D. C.*

MY DEAR MR. SECRETARY: In view of your conference with a committee of the American Chemical Society on Thursday, November 4, I trust this letter will be brought to your personal attention.

Although many of its statements are direct, and some of them controvert your statements to us, we wish to assure you that no discourtesy is intended. We simply desire that you shall have on record and on file certain easily confirmed facts, regarding which you apparently have been ill advised, in order that incorrect statements may not be given out by the State Department. We make no statements that we are not prepared to prove. We would like any correction where we are wrong, as we are as anxious as you can be that the truth, and the truth only, come before the American people.

You stated to us that the United States adhered to and signed the declaration of The Hague peace conference covering the "diffusion of asphyxiating or deleterious gases." The same statement was made by Senator Lodge before the Senate at the time of the ratification by the Senate of the agreement of the Washington conference, and his statement was largely responsible for the ratification of Article V of that agreement. (CONGRESSIONAL RECORD, March 29, 1922, p. 4729.) Senator WADSWORTH the next day (ibid, p. 4781) successfully controverted Senator Lodge's statement, but it was then too late.

In this matter both you and Senator Lodge have been misinformed. The facts are that your illustrious predecessor, Secretary John Hay, instructed the delegates not to support this proposition, as you will find by reference to a publication entitled "The Hague Peace Conferences of 1899 and 1907," by James Brown Scott, Johns Hopkins Press, Baltimore, 1909, Volume II, documents, page 7. The instructions of the State Department in regard to the general subject of the interdiction of new methods of warfare, including asphyxiating gases, contain the following paragraph:

"The second, third, and fourth articles, relating to the nonemployment of firearms, explosives, and other destructive agents and the restricted use of certain contrivances employed in naval warfare, seem lacking in practicability, and the discussion of these propositions would probably prove provocative of divergence rather than unanimity of view. It is doubtful if wars are to be diminished by rendering them less destructive, for it is plain lesson of history that the periods of peace have been longer protracted as the cost and destructiveness of wars have increased. The expediency of restraining the inventive genius of our people in the direction of devising means of defense is by no means clear, and, considering the temptations to which men and nations may be exposed in a time of conflict, it is doubtful if an international agreement to this end would prove effective. The dissent of a single powerful nation might render it altogether nugatory. The delegates are, therefore, enjoined not to give the weight of their influence to the promotion of projects the realiaztion of which is so uncertain."

You can confirm this statement and the statements that follow regarding The Hague peace conference by referring to the text of the "Peace Conferences at The Hague, 1899 and 1907," issued by the Carnegie Endowment for International Peace, 1918.

Admiral Mahan's report on the action of the United States delegates was as follows (Hague Peace Conference, Volume II, p. 37):

"These reasons were briefly: (1) That no shell emitting such gases is as yet in practical use or has undergone adequate experiment; consequently a vote now taken would be taken in ignorance of the facts as to whether the results would be of decisive character or whether injury in excess of that necessary to attain the end of warfare, the immediate disabling of the enemy, would be inflicted. (2) That the reproach of cruelty and perfidy addressed against these supposed shells was equally formally uttered against firearms and torpedoes, both of which are now employed without scruple. Until we knew the effects of asphyxiating shells there was no saying whether they would be more or less merciful than missiles now permitted. (3) That it was illogical and not demonstrably humane to be tender about asphyxiating men with gas when all are prepared to admit that it was allowable to blow the bottom out of an ironclad at midnight, throwing four or five hundred men into the sea, to be choked by water, with scarcely the remotest chance of escape. If, and when, a shell emitting asphyxiating gases alone has been successfully produced, then, and not before, men will be able to vote intelligently on the subject."

All of the States represented at The Hague, including the United States, signed article 23 of the convention, which had to do with poisoned weapons, poisoned wells, dumdum bullets, etc., but the United States took no affirmative action opposed to the use of gases in warfare until the Washington conference of November, 1921. The Hague conference of 1907 simply confirmed article 23 of the conference of 1899 and did not touch on the uses of gases in warfare at all.

At the Washington conference a committee on poison gas, consisting almost wholly of publicists, was appointed. This large committee, of whom only two or three had any knowledge of gas warfare other than that obtained through the hysteria of the public press during war time, had appointed to advise it a subcommittee on poison gas, consisting of technical experts from America, England, France, Italy, and Japan, all of whom came to Washington specifically for the purpose and sat in conference during several days. Their report was unanimous. It was, however, suppressed. We are told that it was never even read to the general committee whom it was supposed to instruct. Repeated demands to obtain copies of this report from the State Department met with refusal. It was finally obtained through publications in France in 1925. A translation of the French text is attached for your information. You will note that those who were really competent to pass upon the matter were strongly opposed to the inclusion of any such article as Article V, written apparently to meet the demand of an uninformed public. In the opinion of the American Chemical Society the adoption of this article is a menace to the safety of our Republic and, if adhered to, insures needless suffering and death in any future war which may occur.

You made the statement to us that Article V of the Washington conference passed the Senate without opposition. Senator WADSWORTH, the best-informed Senator on military affairs and chairman of its military committee, opposed it by an able speech on the floor (pp. 4723 and 4730, CONGRESSIONAL RECORD, March 29, 1922). The opposition was, however, unorganized. Many individuals familiar with the subject wrote their Senators. An editorial opposing the action appeared in the February issue of Industrial and Engineering Chemistry for 1922. The opposition, was however, ineffective, and no votes were cast in opposition, although several Senators, among them Senator WADSWORTH, refrained from voting, fearing, I presume, that the uninformed public would judge them harshly and knowing there were sufficient affirmative votes to pass the treaty over their opposition.

You stated that you knew that chemical manufacturers were opposing our acceptance of the Geneva protocol and intimated that it was from selfish reasons. So far as we are aware, no chemical manufacturer, as such, has taken any stand whatsoever on the subject. No chemical manufacturer has intimated to our society that they were interested therein. Indeed, the very nature of the case disproves your judgment, for the manufacture of poison gases in time of war has no possible bearing on the profits of our chemical manufacturers. Indeed, it would greatly detract therefrom. In the last war all of the gases, or essentially all of the gases, which were produced or which we made ready to produce, were in plants built by the Government and operated by the Government. The profits of explosive manufacturers would be greatly diminished by the use of gas warfare, for a very small expenditure of asphyxiating gases is far more effective, although far less fatal and inhumane, than a similar expenditure on explosives and bursting shells. From a financial viewpoint, our chemical manufacturers would strongly oppose chemical warfare rather than favor it.

You referred to chemical warfare as inhumane. You placed it in the same category as dumdum bullets, and this view of the situation has been fostered by the State Department through interviews in the public press. It is on this point that your advisers are especially ill-informed, and we trust that you, yourself, will make a study of the situation and request your advisers also to do so. The facts are readily available. We refer you especially to the official report of the

Surgeon General of the Army for the year 1920, which includes all Army casualties in the war and a summary of the situation. Kindly note the following short summary of facts:

| | |
|---|---|
| Died on the field of battle | 34,249 |
| Wounded, admitted to hospital | 224,089 |
| Wounded, admitted to hospital suffering from gas alone | 70,552 |
| Leaving for all other weapons, bullets, shells, etc | 153,537 |
| Of those suffering from gas alone there died in hospitals only | 1,221 |
| Recovered | 69,331 |

Less than 2 per cent died.

| | |
|---|---|
| Total wounded by other weapons, bullets, shells, etc., and admitted to hospitals | 153,537 |
| Died in hospitals | 12,470 |
| Recovered | 141,067 |

More than 8 per cent died.

| | |
|---|---|
| Deaths on field of battle and wounded admitted to hospitals caused by weapons other than gas | 187,586 |
| Of these there died | 46,499 |

More than 24 per cent died, while of those due to gas, including deaths on the field of battle, less than 2 per cent died.

This shows that men injured by gas in battle had twelve times as many chances of recovery as men wounded by other weapons. Deaths from gas on the field of battle were very few, estimated at about 200. On page 21 of the Surgeon General's report the following data are given:

| | |
|---|---|
| Totally blinded in both eyes | 66 |
| Partially blinded in both eyes | 44 |
| Blinded in one eye | 644 |
| Total | 754 |

Examining the report discloses that of this number gas was responsible for the following:

| | |
|---|---|
| Blinded in both eyes | 4 |
| Blinded in one eye | 25 |
| Total of | 29 |

These figures show that among the wounded that recovered there was eleven times as much blindness per thousand among those struck with bullets, shells, bombs, and shrapnel as among those suffering from gas alone. The report further shows with regard to those left crippled through loss of extremities (legs or arms) or loss of their use, the following were from bullets, bombs, shell, and shrapnel:

| | |
|---|---|
| Loss of one or more of the extremities | 4,428 |
| Flexibility of one or more joints totally or partially destroyed | 4,719 |
| Total | 9,147 |

Gas caused none of these disabilities.

Statements have been made that gas caused tuberculosis as an aftereffect. On page 103 of the report of the Surgeon General of the Army for the year 1920 is found the following paragraph:

"One hundred and seventy-three cases of tuberculosis occurred during the year 1918 among the 70,552 men who had been gassed in action. Of this number 78 had been gassed by gas, kind not specified; 8 by chlorine; 65 by mustard; and 22 by phosgene. The number of cases of tuberculosis for each 1,000 men gassed was 2.45. Since the annual rate of occurrence for tuberculosis among the enlisted men serving in Europe in 1918 was 3.50, and in 1919, 4.30 per 1,000, it would seem to be apparent that tuberculosis did not occur any more frequently among the soldiers who had been gassed than among those who had not been gassed."

In order to ascertain whether or not there is any reason to suspect that any other aftereffects might be expected to ensue as a result of gassing, the following action was taken by the office of the Chief of Chemical Warfare Service: Three thousand five hundred letters were sent to experienced physicians in this country and Europe; questionnaires to be filled in and returned accompanied these letters. In addition, the Journal of the American Medical Association published a copy of these questionnaires with request that physicians, who had not been communicated with and who were familiar with the subject, fill out the questionnaire and send it to the office of the Chief of Chemical Warfare Service. Replies received showed that the great majority of physicians answering were of the opinion that there were no aftereffects resulting from exposure to warfare gasses.

Similar figures have been collected by other countries engaged in the war, and all lead to the same conclusion. In addition to this report, I am attaching hereto the report from the military surgeon, of April, 1924, giving the testimony of Dr. Albert P. Francine before the Senate Committee on Investigation of the United States Veterans' Bureau. Doctor Francine was assigned in France as special consultant in gas to the Fourth Army Corps from July of the first year of the war until the time of the armistice. During that time he was temporarily assigned for a period of six or eight weeks as chief of staff of the gas hospital, a 1,000-bed hospital just outside of Toul. No one is more competent to speak than he. I have underline many of his important statements. He made the statement that in his earnest opinion toxic gases, if they have any effect, "it may well be a tendency to prevent tuberculosis." He stated, "Of all methods of warfare, gas is the least inhuman and the most effective." He stated, "When these gassed men are brought in at night there is not great suffering. They are not in agony. Men rarely die on the field of battle. It is exceptional." I trust you will find time to read his full testimony.

You stated to us that France has agreed to Article V of the Washington conference and promised to send us copies of the resolution. Again we are confident that you have been ill advised, for we have a letter from the office of the Chief of Staff under date of November 12; a letter from the State Department under date of November 13 (A–W/500, A 4 C/59); and a cablegram from France under date of November 20 stating that the French Parliament has not yet ratified that portion of the Washington treaty relating to noxious gases.

We appreciate you promise to bring the fact that the American Chemical Society is opposed to the signing of the Geneva protocol to the attention of every Senator. We trust that you will do so, as most of our Senators are well aware of the position which the American Chemical Society occupies in the scientific world; of the fact that it is three times as large as any other chemical organization in the world; and of the fact that it has no object but the welfare of our country and no possible financial interest. Our organization contains practically every American chemist of note within its membership and many of the most prominent chemists of other lands. They are familiar with the situation and more competent to pass upon it. On recommendation of our executive committee, there was unanimously adopted at our annual convention in Los Angeles, August 3–8, 1925, the following resolution:

"Whereas at a meeting in Geneva, Switzerland, in May and June, 1925, called for an entirely different purpose, a protocol was drafted and signed purporting to outlaw the use of chemicals in war by agreement; and

"Whereas the Geneva conference was not only without technical advice on this vital national question of chemistry, but they showed in their discussions a lamentable lack of understanding of chemical warfare and the dangers of hasty and ill-considered action; and

"Whereas the chemical and military experts in the Washington conference of 1921 and 1922, after full discussion, recommended that it was against national safety to try to outlaw chemical warfare, which should be considered and controlled in war exactly as any other material or method of waging war: Therefore be it

"*Resolved*, That the American Chemical Society, meeting in convention in Los Angeles, Calif., goes strongly on record against the ratification of the Geneva protocol on poisonous gases as against both national safety and on the grounds of humanity."

We are not in favor of warfare. We oppose most heartily in warfare the use of airplanes, of bombs, or explosives, of gases, or any form of attack upon noncombatants. We are opposed to the Geneva protocol because—

1. It is the perpetuation of a blunder made in Washington in 1922 and another step toward calamity.

2. It will lead to unnecessary suffering, maiming, and death in wars to come.

3. It will tend to discourage all preparedness against an enemy which may unexpectedly use gases.

4. It would tend to leave our country defenseless.

5. It would force us to use, in case we had war against an unprepared nation, bullets, shells, and destructive methods, when with harmless gases the situation might be completely controlled without death or suffering.

6. It could not be made effective, as has been admitted by committees of the League of Nations and all who have technically considered the situation.

7. It would inevitably lead to the adoption of just such proposals as the League of Nations is now putting forth to control the chemical industry of each country and supervise it through national boards.

We promised to send you a copy of a pamphlet entitled "The Truth about the Geneva Gas Protocol," issued by the national legislative committee of the American Legion, which sets forth in a very clear manner, after careful study, the actual facts covering the uses of asphyxiating gases in war by those who were personally subjected to this form of attack. The pamphlet is attached.

We know, Mr. Secretary, that you are sincere: that you are in a difficult position on account of the Washington conference; and that with us you have no thought but the country's welfare. We therefore request your earnest consideration of the facts here set forth.

Very respectfully,

CHARLES L. PARSONS, *Secretary*.

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DEPARTMENT OF STATE,
*Washington, December 7, 1926.*

DEAR MR. PARSONS: I have your letter of November 29, 1926, in which you refer to our conversation of November 4, 1926, relating to the protocol for the prohibition of the use in any way of asphyxiating, poisonous, and other gases, etc., signed at Geneva on June 17, 1925, which is now before the United States Senate awaiting the advice and consent of that body to its ratification by the President.

I note your remark that the statements contained in your letter are direct, and that some of them controvert statements which you allege

that I made to you. I shall therefore reply to you in the same spirit of frankness which your letter shows. I shall take up the points raised in your letter in order.

In the third paragraph of your letter you state that I informed you that the United States adhered to and signed the declaration of the first Hague peace conference concerning asphyxiating gas shells. You go on to point out that the United States did not sign or adhere to this declaration.

You must have misunderstood my remarks to you. I recall stating merely that the United States signed and ratified The Hague conventions of 1899 and 1907, article 23 of each of which prohibits the use in warfare of poisons and poisoned weapons. It is, of course, true that the United States did not sign or adhere to the declaration of 1899 concerning the use of asphyxiating gas shells.

Your quotations from the instructions of Secretary Hay to the American delegation to the first Hague conference and from Captain Mahan's report appear to be accurate.

In the first paragraph, on page 3 of your letter, you state "the United States took no affirmative action opposed to the use of gases in warfare until the Washington conference of November, 1921."

In this connection I would call your attention to the provisions contained in article 171 of the treaty of Versailles, article 119 of the treaty of Trianon, and article 135 of the treaty of St. Germain, which substantially state that the use of asphyxiating, poisonous, or other gases and all analogous liquids, materials, or devices is prohibited and their manufacture and importation are strictly forbidden in Germany, Hungary, and Austria. These articles from the above-mentioned treaties were incorporated by reference in the treaties establishing friendly relations between the United States and Germany, Hungary, and Austria, proclaimed November 14, December 20, and November 17, 1921, respectively. These treaties had been negotiated and signed by this Government prior to the meeting of the Washington conference of 1921.

In the second paragraph of page 3 of your letter you state that there had been appointed to advise the Washington conference a subcommittee on poison gas, consisting of technical experts from the United States, Great Britain, France, Italy, and Japan, all of whom came to Washington specifically for the purpose and sat in conference during several days. You add "their report was unanimous." It was, however, suppressed. We are told that it was never even read to the general committee whom it was supposed to instruct. Repeated demands to obtain copies of this report from the State Department met with refusal. It was finally obtained through publication in France in 1925. A translation of the French text is attached for your information.

I would call your attention to the publication entitled "Conference on the Limitation of Armament," published at Washington, 1922, which contains the full record of the proceedings of that conference. This volume may be obtained from the Government Printing Office. On pages 728–730 there appears the text of the report of the subcommittee to which you refer, which was read in extenso to the committee on limitation of armament of the Washington conference by Secretary Hughes on January 6, 1922. Although the text to which reference is made above does not correspond to the text of the alleged report which you transmitted to me with your letter, I may say that it is presumed that the report which appears in the official text of the proceedings of the Washington conference is accurate and actually constitutes the report of the subcommittee of technical experts to which you refer.

I find no evidence to indicate that this report was ever, as you allege, "suppressed," and can only assume that the document which you transmitted to me with your letter was a draft of a suggested report, which, certainly according to the official record, was never officially submitted to the Washington conference. The report actually so submitted, you will observe, was unfavorable to the possibility of prohibiting gas warfare. It contained a recommendation of the experts to the effect that there could be no limitation of the use of poisonous gases against the armed forces of the enemy, ashore or afloat, and that the only practicable limitation was wholly to prohibit the use of gases against cities and other large bodies of noncombatants. As you know, the conclusions of this report were not accepted by the Washington conference.

You state in the second paragraph on page 3 of your letter, "You will note that those who were really competent to pass upon the matter were strongly opposed to the inclusion of any such article as Article V, written apparently to meet the demand of an uninformed public."

I again refer you to the publication entitled "Conference on the Limitation of Armament," pages 730–736, inclusive, in which there appear three reports which were used by the American delegation in formulating its proposal to prohibit the use of poison gas in warfare. One of these, the report of the subcommittee on land warfare, was signed by Gen. John J. Pershing, and stated "Chemical warfare should be abolished among nations as abhorrent to civilization. It is a cruel, unfair, and improper use of science. It is fraught with the gravest danger to noncombatants and demoralizes the better instincts of humanity."

Another report was a paper prepared by the General Board of the United States Navy, the conclusion of which is as follows: "The General board believes it to be sound policy to prohibit gas warfare in every form and against every objective and so recommends."

In view of the above, I believe that you will, upon reconsideration, desire to modify your statement that "those who were really competent to pass upon the matter were strongly opposed to the inclusion of any such article as Article V."

Without going into any detail in regard to the action of the United States Senate in advising and consenting to the ratification of the Washington treaty, I merely wish to emphasize the fact that this treaty was approved by the Senate, as you state, without any dissenting vote.

In regard to the arguments which you set forth on pages 4 to 6, inclusive, of your letter, tending to show the humane nature of chemical warfare, I may say that it is not within the province of this department to attempt to pass upon the technical considerations involved. The policy of this Government in regard to international efforts to prohibit the use of poisonous gases in warfare was established by the competent executive authorities, including, as noted above, General Pershing and the General Board of the Navy, after full consideration at the time of the Washington conference in 1921 and 1922, and this policy subsequently received the approval of the United States Senate by its advice and consent to the ratification of the Washington treaty.

In the second paragraph, on page 7 of your letter, you allege that I stated that France had agreed to Article V of the Washington treaty. As it is well known that the reason that the Washington treaty of February 6, 1922, is not now in effect is the failure of France to ratify that treaty, I need not enter into a discussion with you as to what I stated at our conference on November 4. I may say, however, that it is not my understanding that France's failure to ratify the Washington treaty is due to any objection to Article V thereof, inasmuch as I have been informed that the French Government has ratified the poison-gas protocol signed at Geneva on June 17, 1925, and is prepared to proceed to a deposit of ratifications thereof at the proper time. You perhaps have reference to this fact in paragraph 2 on page 7 of your letter.

I wish to add that the predictions which you make in your letter as to the effect of the ratification by this Government of the Geneva protocol are, in my opinion, unwarranted. You state that the ratification of this protocol would tend to discourage all preparedness against an enemy which may unexpectedly use gases and would tend to leave our country defenseless. I wish again to refer to the discussions of the Washington conference which led up to the adoption of Article V of the treaty of February 6, 1922, and to the discussions which took place in the arms traffic conference leading up to the adoption of the protocol of June 17, 1925. If you will study these, you will, I am sure, see clearly that all governments recognize that it is incumbent upon them to be fully prepared as regards chemical warfare, and especially as regards defense against it, irrespective of any partial or general international agreements looking to the prohibition of the actual use of such warfare. The purpose of all international efforts that have been made to control this weapon is, according to my understanding, to prohibit its use. I have never seen any proposal seriously advanced by any government to provide that national preparation for the use of and for defense against chemical warfare, if such warfare should be used by an enemy contrary to treaty engagements, should be abolished or curtailed in the slightest.

In regard to your suggestion that the ratification of the Geneva protocol would inevitably lead to the adoption of proposals such as those which you state are now before the League of Nations to control the chemical industry of each country and to supervise it through national boards, I may say that, as you are aware, the United States is not a member of the League of Nations and has consistently opposed any efforts at international control in this or similar matters. I know of no reason to suppose that this Government would accept such supervision.

Sincerely yours, FRANK B. KELLOGG.

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AMERICAN CHEMICAL SOCIETY,
OFFICE OF THE SECRETARY,
*Washington, D. C., December 8, 1926.*

Hon. FRANK B. KELLOGG,
*The Secretary of State, Washington, D. C.*

MY DEAR MR. SECRETARY: I beg to acknowledge receipt, this morning, of your letter of December 7, and appreciate your care and courtesy in the detailed reply you have sent me.

I note that you are now in accord with our statements to you on November 4, 1926, regarding the nonadherence of the United States to The Hague peace conference concerning asphyxiating gas shells and with reference to the fact that France has not agreed to Article V of the Washington treaty. There is, accordingly, nothing further on this point to discuss.

The fact that the United States agreed to article 171 of the treaty of Versailles, article 119 of the treaty of Trianon, and article 135 of the treaty of St. Germain, by which the conquered nations were

prohibited from manufacturing, importing, or storing asphyxiating or poisonous gases and analagous liquids, was simply a step to their complete disarmament and an attempt to render them in future impotent and can have no bearing, by implication or otherwise, on the right of the United States to defend itself by the use of these most effective and most humane instruments. This is particularly true, as all the world knows that Germany has continued to manufacture, use, and store, and is to-day, without protest, manufacturing, storing, and exporting the very same poisonous gases that were effective in the late war and must, if our modern civilization is to function, continue to do so. It is so generally recognized that some of these gases, such as chlorine, phosgene, etc., are so essential to disinfection, general sanitation, purification of water, and manufacture of the materials of everyday life that no protest has been, or will be, made and that this portion of the peace treaty is, and has been from the day of its signing, a dead letter. We, ourselves, have imported phosgene, one of the deadliest of war gases, from Germany for use as a raw material in American manufacture. Germany is to-day better equipped to produce and use, on a moment's notice, "poison gases" than she was in 1914.

I must reiterate my statement regarding the report of the technical experts of the United States, Great Britain, France, Italy, and Japan, who were appointed by Secretary Hughes and the plenipotentiaries of these countries to specifically study and report upon the situation. The text to which you refer on pages 728–730 of the Conference on the Limitation of Armament, Washington, 1922, refers simply to a memorandum obtained from one member of the committee for the advance information of Secretary Hughes. The report itself was never published, and every attempt to secure a copy of it has been declined. Its English text was, and is, unknown to us, the only text available being the French text obtained from France in 1925, the translation of which was attached to my letter of November 29, and which was published in Industrial and Engineering Chemistry in July, 1925. This statement is confirmed by no less an authority than that of Mr. Balfour, and you will note at the bottom of page 738, Conference on the Limitation of Armament, the following:

"Mr. Balfour said that he associated himself with the view to which he understood the chairman had agreed—that all documents of this nature should be circulated as soon as possible. There was one about which there appeared to be some misunderstanding. It was a report of the committee with respect to poison gas. A report on this subject has been circulated to the British delegation, but not to anybody else, and though it might be similar in substance to the report which the chairman has read, it differed in length and in phraseology. He suggested, therefore, that they had both better be circulated. He took this opportunity of expressing his view that it would be better if documents containing reports of subcommittees should be circulated a little sooner than they were."

Since 1922 the American Chemical Society has attempted to obtain the English text filed with the State Department, but has been unable to do so. The committee themselves have never given out the information, as they were all pledged to secrecy. The chairman of the committee, Prof. Edgar Fahs Smith, ex-provost of the University of Pennsylvania, and at that time president of the American Chemical Society, has requested permission to publish it and has been refused. This you can confirm from your files. The American Chemical Society would to-day be pleased to receive from you and to publish an exact copy of the report as made. We believe it to be an extremely important record of the peace conference which, until the French text was obtained in 1925, was not available. While the memorandum agreed in many particulars with the report we have, it had one important difference, in that it was unsigned, and therefore did not carry the weight that would have attached to it from the high character and known experience of the members of the committee. I accordingly feel that the statements in my letter of November 29 are justified.

You are quite correct that Gen. John J. Pershing was one of the 21 individuals who signed the report of the subcommittee on land warfare, but I maintain that his real viewpoint of the situation may be better deduced by his testimony before the Committee on Military Affairs, especially considering this subject when in replying to a question of Senator FLETCHER as to whether it would be safe "for us to say that the use of poison gas is inhuman and that it will not be permitted again," he replied, "No. Decidedly not; because we can not trust the other fellow."

In regard to your reference to the United States Navy, I can only state that the Navy itself did not use, and was not subjected to, asphyxiating or poisonous gases during the late war, and I can, accordingly, see no reason for modifying my statement regarding the competency of the evidence presented at the time of the Washington conference.

I am particularly gratified to note your statement that "all governments recognize that it is incumbent upon them to be fully prepared as regards chemical warfare and especially as regards defense against it, irrespective of any partial or general international agreements looking to the prohibition of the actual use of such warfare. The purpose of all international efforts that have been made to control this weapon is, according to my understanding, to prohibit its use. I have never seen any proposal seriously advanced by any government to provide that national preparation for the use of and for defense against chemical warfare, if such warfare should be used by an enemy contrary to treaty engagements, should be abolished or curtailed in the slightest."

I must continue to maintain, however, contrary to your view, that the only logical course for the United States to pursue, should it agree to the prohibition of the use of gas in warfare, is to itself consent to the same supervision and control of the chemical industry of this country through international boards which France and the League of Nations are quite right in maintaining is the only possible way to police the situation. It is my personal opinion that even such supervision would be entirely ineffective and that there is no possible way to inhibit the use of asphyxiating gases in warfare. As I believe the United States will honorably keep any engagements entered into, she will be particularly helpless, as few believe that such adherence to treaties will be universal.

Sincerely yours,

CHARLES L. PARSONS, *Secretary.*

Mr. HEFLIN. Mr. President, some of the talks that I have heard here recently about poison gas have given me serious concern. I used to hear and read about how horrible poison gas was during the World War. Soldiers fell prone upon the ground, unconscious, suffering excruciating pain, and many of them dying. I had an idea then that the use of poison gas is a brutal and horrible method of warfare. The Commander in Chief of our Army and Navy during the great World War, Woodrow Wilson, came out strongly against the use of poison gas in war. He denounced it in no uncertain tones. If I could prevent it, I would not permit a nation on earth to use it.

In the old days, when soldiers met on the battle field with broadsword or with gun, they saw each other and they fought the issues out with gun and battle blade. Now our boys march out, as brave men as ever battled, the very flower of our manhood, and they do not see an enemy anywhere. They are ready to attack the enemy or to be attacked by him in the open. No enemy appears in sight, but something invisible is thrown into the atmosphere around them, the air that they breathe is poisoned, and they fall helpless poisoned with horrible gases. I think that if we could do something to prevent the use of poisonous gas in the wars of the future it would be a very great and humane thing to do.

Soldiers can locate a field gun when a few shells have been dropped, and they can hide away and escape some of the shells. They can hide in the shell holes, as we have seen from the moving pictures, where soldiers on both sides sought refuge in the shell holes during the World War. They can not see poison gas and the enemy does not tell them when he intends to use this invisible, painful, and deadly stuff. It can be thrown among soldiers and in a minute they will groan and stagger and fall. I have a nephew, Robert Reid, who was gassed in the World War and who had empyema, and he almost died. They cut off six of his ribs and he is injured for life.

But, Mr. President, when I sit here and listen to the eulogies pronounced on poison gas, and hear its interested friends tell how delightful it is, I have been surprised that they have not suggested that it should take the place of perfume. [Laughter.] I have thought about what the children miss in the springtime, when they wander out into the woods among the wild flowers, blooming and sweetening the air with their perfume. How much more delightful these Senators think it would be if they could have mingled with the fragrance of the flowers a little poison gas. [Laughter.]

Oh, Mr. President, this delightful stuff! We have here in the Senate an old-fashioned snuffbox which Senators used in days gone by. They would take a little pinch of snuff and sneeze when they had a cold. If this poison gas is such a delightful thing, why not throw the old snuffbox away and bring some of this mild-mannered poison gas here for Senators to inhale. [Laughter.] If it is such a harmless, delightful, sweet-smelling thing, why not install it for use here? Mr. President, we are but a little while removed from the bloodiest war of the ages, when 10,000,000 boys between the ages of 16 and 21 died, and their bodies are moldering in the clay. American soldiers were stricken down with this deadly stuff. They were poisoned with it upon the battle field. I have not seen one of them thus poisoned but looks like he is injured for life. His color is not good; he is emaciated; and most of them have tubercular trouble. I have not seen a man that I think this devilish suff has helped.

Have we so suddenly forgotten the long line of casualties that appeared in the columns of our newspapers day after day when our boys, 3,000 miles from home, were fighting and dying for our flag, dying for humanity? Have we so soon forgotten that this war, costing a million dollars an hour at the time it ended, that cost half the wealth of the world, had injected into it two of the most brutal and cowardly methods of warfare ever devised, the submarine and poison

gas? I expect to hear some eulogies pronounced on the submarine after a while—that monstrous and murderous thing slipping through the water under the surface with a little periscope seeking out a ship filled with innocent people, sailing the seas or carrying food and clothing to starving and half-clad women and children—sunk upon the high seas.

Senators, lest we forget, let us think again of the ghastly sight that we witnessed when the war ended, of the hundreds and thousands of bodies of American boys borne back from the battle fields in France to be interred in their own soil, boys stricken down in their youth time, murdered on the battle field. Inhaling poison gas is not a pleasant pastime. It is a horrible plan of warfare. It can not be seen. It is inhaled, and it seizes a man and leaves him writhing and trying to get breath, crying for air, falling prostrate, and borne off the field on a litter, and yet here we hear talk about it so lightly like it was a sweet perfume of some sort. Poison gas! How sweet the sound.

Mr. President, there will be a lot of talk about this poison gas by the people back home who furnish the boys to be gassed. I know there are some manufacturing establishments that would like to keep their markets going, but I do not think it is up to the Senate or the Congress to furnish a market for great quantities of this stuff in time of peace. I am in favor, as the Senator from Idaho [Mr. BORAH] said the other day, of keeping our equipment in order and keeping it so we can make this stuff if it should become necessary. We already have a considerable quantity on hand. Why continue to pile it up in order to buy it from somebody who wants to make it and sell it to the Government for a fine profit? What is the use of that?

If that argument is good, the argument against disarmament is good. If that argument is sound, we ought to continue to make rifles and bayonets, thousands and hundreds of thousands of them. If that argument is sound, we ought to continue to increase our fleet of battleships. If that argument is sound, we ought to quit trying to prevent war in the future and let every nation go to it and become an armed camp. If another war should come and the enemy used poison gas, we have enough poison gas now to use until we could manufacture some more. It would be a blessed thing for mankind if the nations should agree never to use poison gas as a weapon of war in future.

Mr. COPELAND. Mr. President, I ask permission to have printed in the RECORD at this point a letter from HAMILTON FISH, Jr., with reference to the poison-gas treaty.

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

DECEMBER 13, 1926.

Hon. ROYAL S. COPELAND,
*United States Senate, Washington, D. C.*

DEAR SENATOR: Replying to your letter regarding my attitude toward the ratification of the treaty to eliminate the use of poison gas in time of war among civilized nations, I am whole-heartedly in favor of such action in the name of common sense and humanity.

As the chairman of a committee of three which drew up the preamble to the constitution of the American Legion, I deplore the fact that the last American Legion convention should have permitted itself to be rushed into the adoption of a hasty and ill-considered resolution after a one-sided debate in favor of the use of poison gas as a recognized and lawful weapon in time of war.

The American Legion, of which I am a member and an ardent supporter, has, I regret to say, often made haste too quickly at its annual conventions in adopting ill-digested resolutions backed by powerful interests or instigated by important individuals in the organization which do not recommend themselves to the rank and file of the Legion after mature deliberation. The Legion is a civilian organization composed of veterans "to make right the master of might and to promote peace and good will on earth." It was not organized for purposes of war and trying to prevent humane agreements among nations to mitigate the horrors of war. Every thinking man and women knows that poison gas, which had just begun to be developed into a deadly weapon when the armistice was signed, will in the next war, if sanctioned, become a means of conveying sudden and horrible death to countless women and children crowded in the cities far back of the battle lines. The use of poison gas in the World War was in its infancy, but new forms of odorless and deadly gas have been discovered which will make the more harmless varieties used 10 years ago mere child's play. You have an opportunity to strike a powerful blow at this new weapon of destruction before it becomes the abomination and desolation of modern civilization.

The United States can not, with self-respect, refuse to cooperate with other civilized nations to destroy this Frankenstein and align ourselves with other great nations striving to protect modern civilization from man's inhumanity to man. Why outlaw dumdum bullets and not mustard or deadly gas?

There is little difference between poisoning the water supply or spreading fatal bacterial germs among the civilian population than asphyxiating them by the use of invisible and odorless poison gas dropped in huge quantities from airplanes.

In the name of common sense, humanity, and of those who paid the supreme sacrifice in the World War, I hope, Senator, that you will do everything within your power to help mollify the horrors of war by voting to ratify the treaty to abolish the use of poison gas as a military weapon, with a reservation that our action will not be binding until England, France, Germany, Italy, and Japan have also signed the treaty.

With kind regards, sincerely yours,

HAMILTON FISH, Jr.

Mr. BORAH. Mr. President, I desire to move, as in open executive session, that the poison-gas treaty be referred back to the Committee on Foreign Relations.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it will be so referred.

## APPROPRIATIONS UNDER MATERNITY ACT

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 7555) to authorize for the fiscal years ending June 30, 1928, and June 30, 1929, appropriations for carrying out the act entitled "An act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes," approved November 23, 1921.

The PRESIDING OFFICER. The question is on the amendment of the Committee on Education and Labor, which will be stated.

The LEGISLATIVE CLERK. On page 2, line 1, the committee proposes to strike out the word "seven" before "years" and to insert in lieu thereof the word "six," so as to make the bill read:

*Be it enacted, etc.,* That section 2 of the act entitled "An act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes," approved November 23, 1921, is amended by striking out the words "for the period of five years" wherever such words appear in such section and inserting in lieu thereof the words "for the period of six years."

Mr. SHEPPARD. Mr. President, I trust the amendment will be rejected.

Mr. BINGHAM. Mr. President, I desire to call the attention of the Senate to the minority report on this bill, presented in the House of Representatives by Congressman SCHUYLER MERRITT, representing the fifth district in Connecticut. I ask that it may be read at the desk by the clerk.

The PRESIDING OFFICER. The clerk will read as requested.

The legislative clerk read as follows:

### MINORITY REPORT

The so-called maternity act passed in the Sixty-seventh Congress authorized for five years the appropriation each year for each State of $5,000 flat (i. e., without being matched by any State appropriation) and an additional appropriation of $1,000,000 to be apportioned among the States at the rate of $5,000 to each State plus an amount proportional to its population, but to receive any part of this additional appropriation a State must first appropriate from its own treasury an equal amount to be used for the purpose of this bill.

In reporting this bill in the Sixty-seventh Congress some members of the committee felt grave doubts whether the objects sought by the bill could by any process of reasoning be brought under the powers granted by the Constitution to Congress. It was argued that appropriations of this sort could be brought under the so-called general welfare clause in section 8 of the Constitution. But high constitutional authorities are of the opinion that the general welfare referred to in the first paragraph of section 8 is strictly limited by the enumerated powers which are set forth in that section.

Any other interpretation would lead to the practical abolition of section 8, because, presumably, any legislation enacted by Congress would be with the intention of promoting in some way, directly or indirectly, the welfare of the Nation, and thus the enumerated powers would be no check on congressional legislation. It is well often to revert to contemporary opinion as to the meaning and powers granted and reserved under the Constitution. The powers granted to the Congress are defined as follows by Hamilton in No. 23 of the Federalist:

"The common defense of the members; the preservation of the public peace, as well against internal convulsions as external attacks; the regulation of commerce with other nations and between the States; the superintendence of our intercourse, political and commercial, with foreign countries."

The powers reserved to the States are set forth by Madison in Nos. 45 and 56 of the Federalist, as follows:

"The powers reserved to the several States will extend to all the objects which in the ordinary course of affairs concern the lives, liber-

ties, and properties of the people and the internal order, improvement, and prosperity of the State. * * * .

"By the superintending care of these (the States) all the more domestic and personal interests of the people will be regulated and provided for. With the affairs of these the people will be more familiarly and minutely conversant."

But nothing is so appealing to the emotions as maternity and infancy, and so the committee, taking counsel of their hearts rather than of their heads, reported the bill favorably, the writer of this report joining with them at that time.

The bill as reported by the committee and passed by Congress was modified materially from its original form as introduced. It made the Children's Bureau a clearing house for the receipt and dissemination of information and instruction in the hygiene of maternity and infancy. The bureau was to carry out the purposes of the act through certain designated State agencies, over whose plans and operations in this regard it had a certain amount of control. The general idea was that the bureau was on this subject to be educational and inspirational and that after the five-year period the States appreciating the value of the work would continue it at their own expense. It is generally conceded that the bureau has performed its work well and with good results.

But, as invariably happens, now that the period of five years is about to expire, the bureau is asking that the appropriation be extended for another two years. The chief of the bureau testified that the work is costing about $1,000,000 per year, and gentlemen have argued that whether it is constitutional or not the sum is so small relatively to General Government expenses as to be inconsiderable. It is agreed that the performance of an unconstitutional function by the General Government is of greater moment than the money involved, but it is always the duty of Congress to avoid needless expenditure of public funds.

As tending to show that further appropriation is needless, a few States, varying widely in situation, area, wealth, and population, are selected and in one column are set down the amounts these States paid to the General Government in 1925 in income and miscellaneous taxes and in another column the amounts they are entitled to draw from the United States in 1926 under the maternity act if they comply with its provisions:

| | Income and miscellaneous internal revenue, 1925 | Maternity, 1926 |
|---|---|---|
| California | $121,000,000 | $26,000 |
| Delaware | 8,000,000 | 11,000 |
| Idaho | 1,750,000 | 8,000 |
| Iowa | 13,000,000 | 26,000 |
| Nevada | 617,000 | 10,000 |
| New York | 658,000,000 | 80,000 |
| Pennsylvania | 216,000,000 | 68,000 |

Even in the case of the State with the smallest tax return it would appear that with income and business sufficient to warrant a payment to the Federal Government of $617,000 it might spare $10,000 for its mothers and babies, and at the other end of the line, where the great States of New York and Pennsylvania pay into the United States Treasury $900,000,000 annually, it surely is a reductio ad absurdum for the United States to hand these two States an annual dole of $148,000 to help in their purely domestic affairs.

The Children's Bureau reports that 43 States have accepted the aid granted under the maternity act, while 5 States, Maine, Massachusetts, Connecticut, Illinois, and Kansas, are now accepting it.

Obviously these five States do not wish the appropriation continued, while the other States have had opportunity by the use of the United States contributions, matched by their own appropriation, to become well acquainted with the work which the maternity act is designed to aid. They are, therefore, in a position to decide for themselves whether they think this work is of sufficient value to be continued, and if they decide in the affirmative the resources of every State, as shown by their payments to the General Government in taxes, are fully able to carry on this work without a money contribution from the United States.

If it be argued that United States aid is necessary or desirable for some States of great area and sparse population, the scheme of this bill which appropriates money for 40 States which certainly do not need it to help 8 States which may need it is a sad waste of public funds. And it illustrates forcibly the difficulty which the Federal Government will always encounter in endeavoring to remedy local ills and troubles which are quite outside its constitutional powers. As has been said, nothing so appeals to one's sympathy and emotion as a mother and baby, and they should have skillful and gentle care; but this should be given by their own community, city, county, or State. There is no more ground for the United States to care for the babies of New York or Philadelphia or San Francisco than to feed and clothe them when they are 5 or 10 years old.

This bill is not in itself of major importance either in the amount of its appropriation or the good or harm it will cause, but it is an example, and rather an extreme example, of the bad tendency to shift responsibility from States and communities where it belongs to the United States, where it does not belong.

For the reasons above set forth such legislation is believed to be unconstitutional, and it is fundamentally objectionable because it tends to destroy local self-government in purely local matters.

If local communities or States look to a distant government for help in their own peculiar concerns, and if they look for instructions to a distant bureau laying down rules for a whole continent and for hundreds of millions of people, it is clear that these communities can not have either the sense of responsibility or the direct and vital interest in their own affairs, which is not only essential for the communities themselves but for the independence and self-reliance and initiative of the citizens who make up these communities. And if the independence and self-reliance of the citizenship of the States is weakened, then the very foundation of a democratic nation is in danger.

SCHUYLER MERRITT.

Mr. PHIPPS. Mr. President, I desire to inquire if the report of the Senate committee on the bill has been read?

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. PHIPPS. I beg the Chair's pardon. I will address my inquiry to the Senator from Connecticut.

The PRESIDING OFFICER. Does the Senator from Connecticut yield for that purpose?

Mr. BINGHAM. I will say to the Senator that the report which was read was the minority report offered in the House of Representatives.

Mr. PHIPPS. That I understand.

Mr. BINGHAM. I do not remember that the report of the Senate committee has been read on the floor of the Senate, but my impression is that it was read when the bill was first presented.

Mr. PHIPPS. I have no recollection of its having been read in the Senate. I would suggest to the Senator from Connecticut that he might ask for the reading of that report.

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

Mr. SHEPPARD. Mr. President, will the Senator from Arizona withhold his point for a moment?

The PRESIDING OFFICER. The Senator from Connecticut has the floor. Does he yield for the purpose of having a quorum call?

Mr. BINGHAM. I yield.

Mr. SHEPPARD. Just a moment. I know the Senator from Connecticut will permit me to have inserted in the RECORD at this point, without reading, the report of the majority of the House committee on the bill.

The PRESIDING OFFICER. Is there objection?

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

[House Report No. 575, Sixty-ninth Congress, first session]

TO AMEND THE MATERNITY ACT

Mr. NEWTON of Minnesota, from the Committee on Interstate and Foreign Commerce, submitted the following report to accompany H. R. 7555:

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 7555) to authorize for the fiscal years ending June 30, 1928, and June 30, 1929, appropriations for carrying out the provisions of the act entitled "An act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes," approved November 23, 1921, having considered the same, report thereon with a recommendation that it pass.

In 1921 the Committee on Interstate and Foreign Commerce, after extended hearings, unanimously decided that it was in the interests of the people of the country to have the Federal Government cooperate with the Several States in the hope of materially lowering infant mortality and maternity death rates and in other ways bringing about better results throughout the Nation in respect of the broad interests of maternity and infancy. It then reported the so-called Sheppard-Towner bill as it had been substantially rewritten in committee, wherein there was authorized an expenditure of $480,000 to be equally apportioned among the several States, and for each subsequent year for five years $240,000 to be similarly apportioned, and an additional sum of $1,000,000 to be apportioned, $5,000 to each State and the balance to be prorated in accordance with the proportion which their population bears to the total population of the United States. It was provided that no part of the million-dollar fund should be paid until it was matched by a like sum from the State receiving the appropriation.

The combined fund was to be used for the general purposes above expressed. Each State, however, was to be the originator of its own

plans and methods, subject only to general scrutiny and approval by the Federal Government to see that the plans were reasonably appropriate to that end. The State plans are, in consequence, different not only in detail but in general scope. They have different problems to meet and different sums of money available to carry on the work. But among the activities common to all may be mentioned the maintenance of child health centers for mothers and babies, prenatal conferences for expectant mothers, home visits by doctors or nurses, education through literature, lectures, classes, movies, etc.

PROGRESS OF WORK

At the health centers and prenatal conferences doctors and nurses are present to advise mothers and to examine children. In this connection, the committee quotes from the testimony of Miss Grace Abbott, Chief of the Children's Bureau and chairman of the Federal Board of Maternal and Infant Hygiene, and, therefore, in charge of Federal activities in the administration of the act.

Page 8 of the hearings:

"Reports of the work during the fiscal year 1925 show 18,154 child-health conferences held by 43 States administering the Federal funds, with 290,846 infants and children of preschool age examined and 607 children's health centers established through the efforts of the States; 3,781 prenatal conferences with 36,690 women in attendance and 65 permanent prenatal centers established. The reports also show that midwife classes were held in 19 States, with an attendance of 10,693, and that 8,047 women completed the course of instruction.

"There were 370,591 home visits and home demonstrations made by Sheppard-Towner nurses in 1925. Mothers classes were attended by 31,529 women, and 1,362 'little mothers' classes were organized for girls between 10 and 15 years of age."

* * * * * * *

Page 9 of the hearings:

"In the two-year period 1924–25, to take just the figures, there have been 33,701 child-health conferences held, with more than a half million babies examined; 9,869 prenatal conferences with 75,000 and more mothers in attendance; and 519,391 home visits and home demonstrations made in the more remote areas.

"The aims of all the States have been an extensive campaign of education throughout the whole State, with at the same time intensive campaigns looking to putting the work on a permanent locally supported basis have been undertaken in an increasing number of counties. So that, too, has been the object right along. One thousand six hundred and ninety-one permanent infant-welfare centers have been established on this basis and 263 prenatal centers of this type established.

"The midwife instruction and supervision has been, generally speaking, a regular feature of the work in States in which midwifery is a problem, and 35,592 midwives have been enrolled in the midwife courses of instruction.

"One hundred and twenty-seven thousand and twenty-nine mothers have been attending the mothers classes that were organized, and 4,362 'little mothers' classes for the children between 10 and 15 have been organized.

"These figures, which I give as an indication of the activities of the staff of the States, are in no sense representative of the amount of work that has been done. The constant effort has been not to do the work through the State staff but to get the work locally done, and primarily the conferences held have been for demonstration and educational purposes for the community."

As a result of this stimulation through the instrumentality of this act, material progress has been made in promoting this work. Ten States which formerly conducted no work of this kind whatever are now doing most excellent work, while others which did work of this kind to a limited extent have materially extended their activities. We attach to this report a table, marked "Exhibit A," which will show the progress made in lowering the infant mortality death rate.

We are also attaching to this report, marked "Exhibit B," a similar table showing the progress made in lowering the maternal death rate. There were 15,105 maternal deaths in the United States in the year 1923. Of this number, 5,657 (37.5 per cent) were due to sepsis (puerperal spticemia), commonly known as child bed fever; 3,929 (26 per cent) were due to albuminuria and convulsions. These two main causes (sepsis and albuminuria) are in large measure preventable, yet it will be observed that in 1923 they caused two-thirds of the maternal deaths. In other words, two-thirds of the mothers dying in 1923 from causes related to childbirth lost their lives from a disease or condition that could have been avoided. The remaining 5,519 deaths (36.5 per cent) were due to other conditions not so obviously preventable, as puerperal hemorrhage, accidents of pregnancy, accidents of labor, and other puerperal conditions.

"Exhibit C" gives the comparison as to maternal deaths with foreign countries. The committee calls attention to the comparisons between the various countries, including our own.

Forty-three States and the Territory of Hawaii are working under the terms of this act as the present time. In the appendix and marked "Exhibit D" will be found a table setting forth the amounts available to the States from this fund and the amounts accepted by them.

The original act was for five years. It was in the nature of an experiment or a demonstration. The act has been a success. States have initiated and carried out their own plans to meet their own particular problem in their own way. So far as the committee can ascertain, there has been no complaint whatever of Federal interference. All possibility of this was avoided when the committee revised and amended the terms of the original bill that was introduced. This has meant increased State responsibility for the welfare of mothers and children. It has been the means of strengthening rather than weaking the machinery of the States for doing so. Furthermore, the committee finds that within the States local communities have been led to share the responsibility. In other words, in some States there has been matching of State funds by local funds. The committee is of the opinion that the Federal Government should not yet withdraw from this work. To do so would mean the undoing of much of the work that has been recently initiated. A considerable portion of the work is necessarily still in a formative stage. It will take time before this work is placed upon a firm and permanent basis. Until this is more certain, the committee feels that the Federal aid given in the act should be extended. This bill proposes to extend it for the period of two years.

THE QUESTION OF FEDERAL AID

There was no criticism raised or objection made before the committee by anyone as to the work itself or the manner in which the terms of the act were being carried out. Objection, however, was raised but solely on the grounds of Federal policy. Of course, similar objections were made when the original bill was under consideration by the committee. The question was most thoroughly considered by the committee at that time. Nevertheless, it was unanimously decided to report the bill out favorably. The committee feels that this at least should settle the question for the time being, especially so when the work is so well conducted and when the amount expended is so small. Certainly it is not large when compared with some of the other twenty-odd Federal-aid appropriations to which apparently no objection is being seriously made.

Federal aid to the States is no new question. In one form or another the question has been under discussion in this country from a time antedating the adoption of the Constitution. It first took form in the grants of public lands by the United States under the Articles of Confederation. The grants were made in the ordinance of July 23, 1787, which contained grants of Federal public lands for public schools and universities. The lands in particular were located in the State of Ohio. This legislation was followed by others from time to time. It may be said that a great majority of the States of the Union have received Federal land grants of one form or another for educational purposes. The committee is under the impression that this is true of every State in the Union. The total amount of land given by the Federal Government alone to the States for public schools amounts to over 114,000 square miles. This constitutes an area larger than a great many of our States.

However, not only were Federal land grants made for educational purposes, but for all kinds of internal improvements, such as roads, bridges, canals, etc. In some instances Federal land grants have been made to the States for erecting State capitols and other State public buildings.

Later the Nation gave to the States for the railroads which were then in process of building or to the railroads direct a vast portion of the public domain covering millions upon millions of acres. It would constitute an area as large as several of our good-sized Mississippi Valley States.

These are mentioned to show that Federal aid is not an innovation starting with the Sheppard-Towner Act.

It will be observed that these grants were direct donations from the Federal Government to the States for specific purposes. This policy continued from our early history up to and until the period of the Civil War.

Then came the passage of the Morrill Act of 1862. This act established Federal aid through land grants by conveying to all of the States in proportion to population parts of the public domain. The law provided, however, that the gift was to be upon condition that the State use the gift in the establishment of a school for instruction in agriculture. This act was followed some years later by the Hatch Act of 1887, whereby each land-grant college provided for in the Morrill Act was given a certain sum from the sale of public lands, conditioned upon the establishment of an experimental station. Later, from time to time, these acts have been amended and additional similar legislation has passed Congress.

Then in 1911 there was inaugurated a still different plan of Federal aid. In this plan a donation was provided for by the Federal Government upon condition that the State should appropriate at least a like or similar sum of money for the purpose specified in the act. It was the idea of the framers of this legislation that this method would stimulate more activity upon the part of the States and would insure much better cooperation.

Among the Federal aid acts which have been passed and which embody this general principle of Federal aid are the following:

The Weeks law for forest fire prevention. Act of March 1, 1911.

The Smith-Lever Act for agricultural extension work. Act of May 8, 1914.

The good roads act. Act of July 11, 1916.

The Smith-Hughes Act for vocational education. Act of February 23, 1917.

The Chamberlain-Kahn Act for the suppression of venereal disease. Act of July 9, 1918.

The industrial rehabilitation act. Act of June 2, 1920.

The Federal highway act. Act of November 9, 1921.

The Sheppard-Towner or maternity and infant welfare act. Act of November 23, 1921.

The Clarke-McNary Act for the protection of forest lands, etc. Act of June 7, 1924.

In the appendix and marked "Exhibit E" will be found a statement setting forth a number of these Federal-aid appropriations and the amount of money requested to be appropriated, as set forth in the Budget for the fiscal year 1927.

Among the organizations appearing in support of this extension were the following:

General Federation of Women's Clubs of the United States.

American Child Health Association.

National Women's Trade Union League of America.

National Council of Jewish Women.

National board of the Young Women's Christian Associations of the United States of America.

National Council of Women (Inc.).

National League of Women Voters.

National Consumers' League.

National Congress of Parents and Teachers.

At the hearings were a number of representatives of the various States who have been in charge in their own States of the carrying on of this particular work. They joined in the general request for an extension of the time.

The bill has the approval of the Department of Labor, as will appear by the letter attached and which is made a part of this report.

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DEPARTMENT OF LABOR,
*Washington, December 21, 1925.*

Hon. JAMES S. PARKER,
*Chairman Committee on Interstate and Foreign Commerce,*
*House of Representatives, Washington, D. C.*

MY DEAR MR. PARKER: In accordance with the terms and conditions Sheppard-Towner Act of November 23, 1921 (Public, No. 97, 67th Cong.) and of the act of March 10, 1924 (Public, No. 35, 68th Cong.) 43 States and the Territory of Hawaii are cooperating with the Children's Bureau of the Department of Labor in the promotion of the welfare and hygiene of maternity and infancy. The activities undertaken by the States are summarized in the published reports of the administration of the act and in the annual report of the Chief of the Children's Bureau for 1925, copies of which are inclosed.

With very few exceptions the States have not expended the funds made available by the act for work in the larger centers of population, but have attempted to carry out faithfully the purpose of Congress in enacting the law by expending the funds thereby made available in reaching smaller cities and towns and rural districts, isolated groups, and sections where the mortality rates were especially high. Fathers and mothers have traveled great distances to attend the conferences held by physicians and nurses, and local communities have cooperated in many ways. While very remarkable progress has been made in getting the program under way in the States, in no State can the field be said to have been plowed the first time.

The provisional figures of the vital statistics division of the Bureau of the Census for 1924 indicate a substantial drop in the infant-mortality rate in the United States for both urban and rural communities in the United States birth-registration area, but even with this improvement the infant death rate in the United States is higher than in Australia, the Netherlands, Norway, Sweden, and the Irish Free State, and no State in the United States birth-registration area has so low a rate as New Zealand. It is quite evident, therefore, that the United States can not afford to slacken its efforts to reduce its infant death rate.

The cost of the Federal administration of this act has been kept at a minimum. At present the staff of the maternal and infant hygiene division of the Children's Bureau, which is in immediate charge of the administration of the act, includes three doctors, three nurses, an auditor, and two clerks.

While the maternity and infancy act is permanent legislation, the appropriation authorized under section 2 of the act was for a five-year period, which expires June 30, 1927. For the purpose of Budget estimates next autumn and in order that the State legislatures meeting in January, 1927, may know what funds will be available, action with reference to this appropriation should be taken by the present Congress. I therefore submit for your consideration a proposal which would authorize continuing this appropriation for the fiscal years 1928 and 1929.

This proposal has been submitted to the Bureau of the Budget, and I am informed by the Director of the Bureau of the Budget that he has presented it to the President, and that the President has advised that it is not contrary to his fiscal policy.

As the work is just getting under way in the States, it would be very wasteful of the expenditures already made if the appropriation were not extended at this time. There is no more serious waste than the unnecessary deaths of infants and of mothers in childbirth. The cooperation of all agencies, both public and private, in reducing this unnecessary loss of life is therefore justified.

Cordially yours,

JAMES J. DAVIS, *Secretary.*

Mr. CAMERON. I renew my suggestion of the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

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

| | | | |
|---|---|---|---|
| Bingham | Gillett | Moses | Smoot |
| Bratton | Goff | Neely | Steck |
| Broussard | Gooding | Oddie | Stephens |
| Bruce | Hale | Overman | Stewart |
| Cameron | Harris | Pepper | Trammell |
| Capper | Heflin | Phipps | Tyson |
| Copeland | Johnson | Ransdell | Wadsworth |
| Couzens | Jones, Wash. | Reed, Mo. | Walsh, Mass. |
| Curtis | Kendrick | Reed, Pa. | Watson |
| Dale | Keyes | Sackett | Weller |
| Deneen | King | Schall | Wheeler |
| Edge | Lenroot | Sheppard | Willis |
| Ferris | McKellar | Shipstead | |
| Fess | Mayfield | Shortridge | |
| George | Metcalf | Smith | |

The PRESIDING OFFICER (Mr. WHEELER in the chair). Fifty-seven Senators having answered to their names, a quorum is present.

Mr. BINGHAM. Mr. President, there are certain powerful influences at work endeavoring, consciously or unconsciously, to change the fundamental principles on which our Government is based. There is a certain movement which, carried to its logical conclusion, will profoundly affect the character of the free, independent, and liberty-loving citizens upon whom our Republic must depend if it is to be strong and not weak. I refer to the effort being made by those who favor the bill now before the Senate to extend the so-called Sheppard-Towner Act and also to the effort to federalize education and social welfare.

In the first place, I should like to call to the attention of the Senate certain actual planks in the legislative program of various powerful national organizations as they are brought to us by their legislative representatives. One of the most influential of these bodies, claiming a membership of several millions, only a few months ago adopted among its resolutions a reaffirmation of its faith in the child labor amendment, and yet nearly 40 States have already expressed through their legislatures a disapprobation of that amendment.

The State of Connecticut, through its last legislature, by a vote of 33 to 1 in the upper house and by a vote of similar proportions in the lower house—a vote of 231 to 7—voted against the child labor amendment. If I recollect correctly, the legislature of the State of Virginia, by a unanimous vote, rejected it. Yet only recently one of these bodies, claiming to represent a membership of several millions, has reaffirmed its faith in the child labor amendment. It is not alone in this attitude. At least half a dozen national organizations are urging the adoption of a constitutional amendment to enable Congress to legislate for the prevention of child labor.

Mr. REED of Missouri. Mr. President, does the Senator object to giving us the name of the organization that has several million members and that wants such a constitutional amendment adopted?

Mr. BINGHAM. I have not got it here, but my recollection is it was the Federation of Women's Clubs at its meeting in Atlantic City a few months ago. They claim to represent a membership of more than 3,000,000.

Obviously these organizations expect either to persuade State legislatures of the future to surrender the power of their individual States to control the labor and education and health of their own young people or else these organizations are proposing another similar amendment, which may be easier to adopt.

In the second place, more than a dozen of these national bodies firmly believe in the establishment of a Federal department of education and are urging action by Congress, not only to create such a department but to provide Federal aid for the eradication of illiteracy and for the equalization of educational opportunities. Their argument is based on the fact that there is more illiteracy in some States than in others and that some States do not provide as good schools as do others.

In the third place, these organizations are urging larger appropriations for the Federal Children's Bureau and the Federal Women's Bureau.

Fourth, they demand larger appropriations for the support of Federal means to improve our own private homes by home-administration work and vocational home economics.

Fifth, they are urging this bill now before us, which extends the time for the operation of the act which gives Federal aid and counsel in connection with the birth and nurture of little children.

Mr. President, if it is the duty of the Federal Government to look after the social welfare of its citizens, then surely this bill ought to pass, although it is worth noting that five States, including Connecticut, Massachusetts, Kansas, and Maine, have declined to accept this maternity aid. Although contributing to its support by the Federal Government in other States, they prefer to pay for their own nursing.

The national organizations which ask for this social-welfare appropriation are concerned with promoting social welfare and are working without self-interest for what they believe to be the public good. They are inspired by sincere devotion to the public interest. Furthermore, Mr. President, they are represented in Washington by very able lobbyists, who take pains frequently to tell us of the millions of voters whom they represent, who are organized to carry out these programs. These legislative agents use as their chief weapon the size of their voting strength. They tell us frankly, with smiles on their charming faces, of the millions of voters for whom they speak. They put pressure where pressure counts. Sincere in their profound belief in the righteousness of the cause for which they are working, they urge us to pass these measures. Their motives are unquestionably lofty and unselfish. The health and happiness of mothers and little children, safety, cleanliness, social hygiene, the eradication of illiteracy, better homes—surely no one can object to the promotion of these essential elements in the general welfare of the people of our beloved country! The ends are all right; but how about the means?

Is it best for the United States that these ends be secured through the Federal Government or through the State governments? Is it best to have more centralization in Washington, more bureaus, more money for the bureaus to spend, more power to the bureaucrats? Is it wise that for the sake of these highly desirable ends we take away the responsibility of the States to look after their own citizens? In order to secure the physical and mental welfare of our people, and promote the health and happiness of mothers and little children, is it wise to break down State boundaries, and to build up the power and responsibility of those of us who have offices here in Washington?

It is pleasant to have power. Our faithful bureau chiefs undoubtedly are willing to work hard for the general welfare. None of them are seeking to shirk their responsibilities. Shall we give them more to do? Must we proceed to make the rules and regulations for the ordering of the lives and welfare of 115,000,000 people? Are the communities where these people live not to be trusted? Are State legislatures so lacking in wisdom?

Why is it that a member of a State legislature is not wise enough to make proper laws regarding the happiness of the homes and the health of women and children, but when the same man happens to become a Member of Congress he can be trusted? Is it because he is nearer to the headquarters of the national organizations? Why is it that the citizen who holds the office of State commissioner of social welfare, looking after a million or so of his fellow citizens in his own State, is not to be trusted, but when the same man happens to come to Washington to become the head of a Federal bureau looking after 115,000,000 people he suddenly becomes all wise and trustworthy? Is it because "distance lends enchantment to the view"?

These organizations love America. Who does not? They wish to see her strong and wise and noble, and an ideal mother to her children. Who does not? But they believe—and here, Mr. President, is the point to which I desire to call particular attention in connection with this legislation—they believe in the American *Nation* rather than in the *United States* of America. They say: "County lines are becoming meaningless. Why not State lines?" They ask: "Is it not better to stamp out illiteracy and social disease, and to promote the health of mothers and the happiness of little babies, rather than to maintain any old-fashioned ideas of State sovereignty and State responsibility?"

They say that State rights disappeared 60 years ago! They seem to overlook the fact that the strength of our States and the responsibility of local self-government have been the safeguards of our liberty and freedom. Otherwise, the great power of the Central Government would long ago have silenced the diverse wishes of self-respecting communities and crushed individual initiative and self-reliance.

Mr. President, we all like short cuts. We are impatient with the slowness of natural growth. We lose our temper with slow trains. We more than lose our temper when we find ourselves in a row of slow-moving motor cars. We like speed, and we demand immediate results.

It is quite obvious that the quickest way to get efficient government is through centralization. The quickest way to get good schools, to stamp out illiteracy, is to place the power of making all rules and regulations and the power to carry them out in the hands of one all-wise educational expert. Take the best expert educator you can find—some famous college president—give him absolute power and plenty of money, and you will achieve your ends quicker than in any other way. You will have more sanitary schoolhouses, more trained teachers, the best curricula, the latest knowledge, and the most efficient system. Your teachers, of course, will be mere dummies, doing exactly as they are told, exercising no individual initiative. Your school committees can be all done away with. Parents will be in the discard. You will get results; but among them will be the loss of individual initiative on the part of thousands of citizens now acting on school committees and as teachers. You will deprive them of an interest in their work. You will deprive them of the sense of responsibility as teachers and members of the school committee. Some communities will like the kind of school you could give them. Others will hate it. They will refuse to send their children to it. You will secure efficiency and literacy; you will lose freedom and liberty. You will secure uniformity; you will lose the pursuit of happiness. You will gain a pleasing outward appearance of education, but you will lose what is far more important—you will lose the building up of character in citizens whom you deprive of responsibility, and from whom you take away the lessons that can be learned only by making mistakes. Is not experience the best teacher?

Mr. President, it is quite obvious that a very quick way to have America healthy and sanitary is to pass this bill and similar bills; but even more important and a shorter cut would be to give all power into the hands of the greatest sanitary expert you could find. With the power of the Federal Government, and with thousands of Federal inspectors, this individual could clean up all unsightly back yards. He could wash the dirty streets that the communities did not care about washing. He could purify the water supply that they did not care about themselves. He could stamp out disease and make all Americans physically healthy. You would get results; but among them, Mr. President, would be the loss of self-reliant character. You would destroy individual initiative, personal responsibility, and self-respect in thousands of citizens upon whose shoulders to-day rests the responsibility for keeping their communities healthy, their streets clean, their citizens free from disease, their children well brought up, their infant mortality low, their mothers well educated.

In other words, Mr. President, the quickest way to secure the physical blessings of government, the quickest way to promote the general physical and mental welfare of the people is by more centralization. Let us, then, have more centralization! Benevolent power, wisely exercised for the interest of the community, will make "the things which are seen" shine with a dazzling polish. As for "the things which are unseen," that is a different matter, and a matter which some of these organizations which are so ably represented here in Washington seem not to have taken into account.

Is it not well for us to remember, Mr. President, that history teaches that every benevolent despotism has eventually become a tyranny, every benevolent despotism has finally been wrecked by an outraged people? Common sense would seem to teach us that if you desire to develop good citizens you must give them something to do, important acts of citizenship to perform; and what more important act could there be than the necessity of looking after the welfare of the people in the communities?

It hardly needs to be said that I am heartily in favor of whatever will really promote child welfare in home, school, church, and community. My own chief hobby is boys and their welfare. Furthermore, I am heartily in favor of whatever will raise the standards of home life and will secure more adequate care and protection for women and children. I desire to see for every child the highest possible advantages, not only in physical and mental but also in moral and spiritual education. If I believed that in the long run these could be secured by giving more power to these benevolent bureau chiefs in Washington, I should join with those who are working to secure laws which tend in this direction. But it is because I

am so profoundly convinced that such laws will ultimately result in loss of character by our citizens, and will ultimately prevent the moral and spiritual growth of our children, and keep them from becoming sturdy members of a self-governing republic, that I am venturing to oppose these legislative proposals and programs which have been adopted by so many earnest, unselfish citizens.

Mr. President, if they succeed in their present efforts to have the Federal Government assume the responsibility for better social welfare, they will eventually succeed in killing off the very spirit of self-reliant citizenry which has made America possible. This trend leads to a protecting paternalism which will cause the atrophy of our powers as a self-governing people. Only those who are able and willing to govern themselves are fit to be free. Remove from the State governments the essential duties of providing adequately for the education of their children and the health of their mothers and the happiness of their homes, and you take away from them the most vital part of their duties. Deprive them of this responsibility and you might as well deprive them of all.

It is the supreme necessity for correcting conspicuous social evils which arouses indifferent citizens to exercise their powers as members of the body politic. It is by exercise that the body is made strong. Deprive it of exercise and it atrophies, it dies. What we must do is to build up stronger citizens, to increase the sense of civic responsibility, to multiply the number of those who are anxious and willing to do their bit in making things better. Only active citizens are worthy to be called citizens.

How can we arouse their interest in citizenship if we take away from them these duties and give them to the Federal Government as is proposed in this legislation? How can we overcome the prevailing indifference on the part of thousands of voters? It has been noted frequently that year by year fewer and fewer persons go to the polls. How can we induce more citizens to be active and self-sacrificing in accepting responsibility? Can we do it by giving Washington more to do?

It is necessary, Mr. President, to take into account that quality in human nature which makes a man indifferent to that which does not immediately affect his interests. If you take away from the town government and the State government the duty of looking after the welfare of the individual and of his wife and children, then you simply encourage the citizen to be indifferent to State and local elections. You make him less likely to do his part in making local government better. You make him less willing to give his time to the public service. You destroy a large part of his natural interest in government. You make him a poorer citizen. And the more efficiently the central Government looks out for his individual welfare and that of his children and his neighbor's children, the less likelihood is there of his taking the trouble to be a sturdy, self-reliant citizen; and the less chance you have of developing a citizen worthy of the name.

Hundreds of thousands of citizens have already come to the conclusion that the only vote worth taking the trouble to cast is the vote for President. Multitudes already abstain from voting in State and local elections.

As our citizens become less self-reliant, less practiced in self-government, it becomes more and more difficult to maintain "government by the people." They become less fit to act as rulers. The more you yield to their demand for help, the more surely you bring the day when they will have neither the experience, the wisdom, nor the strength to govern themselves. When people are no longer competent to govern themselves, they soon cease to be free and independent. They become dependent subjects, fit only for an autocracy. When you take away responsibility from a citizen, he ceases to be a citizen and becomes a subject.

Are we to secure more interest in the duties of citizenship by giving the citizens less responsibility for providing for these matters which immediately affect their own interests? It does not seem so to me.

Are we likely to promote good citizenship by taking away from our citizens the necessity for making wise decisions in such matters as schools and child welfare, questions which are daily before their very eyes? It does not seem so to me.

Remove State responsibility in these matters and you take away the most essential courses in the school of citizenship.

There is another aspect to this problem, and that is the limitations of human nature. In this race for a more perfect Government we must consider the human handicaps. We must not lay more burdens on any one man than can be borne. We must not strain human nature to the breaking point.

The Members of the Congress of the United States are loyal, faithful, and hard working. Nevertheless it is impossible for them to study more than a small fraction of the thousands of bills which are presented to Congress every year for its consideration. It is absolutely essential that the Federal Government provide for the national defense, consider wisely its dealings with foreign countries, promote justice between the States, and protect the States from all forms of aggression.

This is in itself an enormous and difficult problem. If we add to this the promotion of the general welfare of the people of the United States, the general welfare of 115,000,000 different individuals, living under widely different conditions in 48 different States, we shall unquestionably overburden Congress and break down its ability to function. Indeed, it is already overburdened to the point where it is only with the greatest difficulty that it secures time for the consideration and study of the vital questions which rightfully belong to it.

There is actually an amusing side to this movement for more centralization. Congress is rarely praised for its wisdom. The Senate in particular receives far more brickbats than bouquets. Yet these organizations, so ably represented here by eloquent lobbyists, would actually give it more things to do, place more responsibility on its shoulders, add to the burdens under which it is already staggering, and, according to many, failing to give satisfaction. Our friends would take away from the legislatures of our several States that which they can do fairly well in the elusive hope that Congress will do it better.

Furthermore, there is the executive branch of the Government. The more duties you lay upon it the more impossible it becomes for the executive to carry out its proper duties, the more difficult it becomes to perform its functions wisely and thoroughly. The more burdens we give to the heads of our different departments the more impossible it becomes for them to know the details of the duties which are intrusted to them, the more they must rely on their agents. It really means that decisions affecting the lives and happiness of millions of citizens are intrusted to the wisdom of remote bureau chiefs, wholly unfamiliar with local conditions and desires.

Then there is the question of self-respect. If a man is a real man, self-respect is important. Self-respect is essential for a family to maintain if it is to be a real unit in the structure of Christian civilization. Self-respect is just as important for a State if it is to do its part as an integral unit of these United States. Can a State maintain its self-respect if it shifts its responsibility to the central Government? Can a State take pride in the welfare of its citizens when that welfare is due to the activities of the Federal Government?

In Connecticut we take an enormous amount of satisfaction in the record of our State. We are proud of our State institutions. Our tuberculosis commission and its sanitaria are second to none. Our roads are the equal of any in the country. Our schools are the envy of many. Our laws regarding child labor, education, and the general welfare of our citizens, are recognized as being highly desirable for others to copy—when they see fit. Our motor vehicle department, our agricultural experiment station, our humane and penal institutions are looked to as models of excellence. Furthermore, we are financially sound. We do not spend more than our income. We are not in debt. On the contrary, during the past 10 years we have provided for the payment of all our outstanding bonds and to-day have a surplus in the State treasury, and we have increased our State taxes since 1917 by a smaller rate than any other State in the Union. We take great satisfaction and pride in this record of our State and in seeing it well governed. The achievement of these results has developed self-reliant citizenship.

Supposing all this had had to be done for us by Washington. Does anyone believe that the results would have been conducive to good citizenship? Does anyone contend that the people of Connecticut would be better off if you took away from them the satisfaction they take in their State government?

I am proud of Connecticut because she is willing to assume the full burden of State responsibility. Connecticut does not ask for Federal charity. We seek only justice and a square deal and the privilege of performing our full duty by our citizens. We want no Federal interference with our schools, our churches, or our charitable institutions. We prefer liberty to luxury. We prefer freedom with its burdens to dependence with its comforts. We look to the National Government for national defense and for justice between the States. The Federal Government should be a mighty fortress, not a sanitarium or an almshouse.

Finally, there is the school of citizenship. No body of citizens ever had less done for them by the central government than did the original thirteen Colonies. No citizens were more thoroughly thrown on their own resources to provide their physical and material welfare than were our ancestors, who came to these shores in the days when America was in the

making. Ingenuity, self-reliance, self-control, sturdy independence, courage, and tenacity, the very essence of the fiber which has made American character great, were not developed under a paternalistic government. The political wisdom which went into the making of the American Constitution, that great document which has been called the wisest form of government ever devised by man, was developed in the school of strong local self-government.

It is our duty to strengthen that school and keep it going. If we close its doors our system of government will fail and America will decline, because government by the people will become government by inexperienced rulers, weak subjects, rather than sturdy citizens.

Listen for a moment to the matured opinion of the late James Bryce, who was perhaps the greatest authority on popular government that our generation has seen. He claimed that self-government in small areas renders an essential service "in forming the qualities needed by a citizen of a free country." Said he:

> It creates among the citizens a sense of their common interest in common affairs, and of their individual as well as common duty to take care that those affairs are efficiently and honestly administered. Laziness and selfishness, which is indifferent to whatever does not immediately affect a man's interest, is the fault which most afflicts democratic communities. Whoever learns to be public spirited, active, and upright in the affairs of the village has learned the first lesson of the duty incumbent on a citizen of a great country, just as, conversely, "he that is unfaithful in the least is unfaithful also in much." * * * Local institutions train men not only to work for others but also to work effectively with others. They develop commen sense, reasonableness, judgment, and sociability. Those who have to bring their minds together learn the need for concession and compromise. A man has the opportunity of showing what is in him and commending himself to his fellow citizens. Two useful habits are formed—that of recognizing the worth of knowledge and tact in public affairs, and that of judging men *by performance rather than by profession or promises.* * * * The best school of democracy and the best guaranty for its success is the practice of local self-government.

This opinion of Lord Bryce regarding the importance of local self-government has been ably seconded by others.

Last spring, in his Williamsburg speech, President Coolidge emphasized this truth when he said:

> No method of procedure has ever been devised by which liberty could be divorced from local self-government. No plan of centralization has ever been adopted which did not result in bureaucracy, tyranny, inflexibility, reaction, and decline. Of all forms of government, those administered by bureaus are about the least satisfactory to an enlightened and progressive people. Being irresponsible they become autocratic, and being autocratic they resist all development. Unless bureaucracy is constantly resisted it breaks down representative government and overwhelms democracy.

Let us burn these words into our memory. Centralization, bureaucracy, "breaks down representative government and overwhelms democracy."

Mr. President, the general welfare of the sovereign States of the Union does concern the Federal Government, but the general welfare of the individual people in those States concerns the State governments, not the Federal Government. Paternalism leads to bureaucracy and intolerance. Self-reliance leads to independence and freedom. Self-reliance justifies self-government, and the kind of legislation now before us strikes directly at self-reliance.

Let these public-spirited societies which are maintaining so many able lobbyists in Washington put their efforts where the results will not only improve the physical and mental welfare of our women and children, but where they will also build up and strengthen the character of our citizenry, where they will increase the number of able-bodied, able-minded, well-trained rulers.

First. Let them educate public opinion in the communities and the States where it is ill-informed or lacking.

Second. Let them work through local boards, municipal councils and State legislatures to secure the passage of those laws which are believed to be necessary for the general social welfare.

In this way they will not only improve the health and wisdom and happiness of the communities, they will also help to preserve our form of government. They will help to make it possible that government for the people shall also be by the people and not by a few wiseacres in Washington.

If Lincoln was right when in his Gettysburg address he rededicated the Nation to the high resolve that "Government by the people shall not perish from the earth," then surely we are right, with increasing devotion to that cause for which our heroes "gave the last full measure of devotion," to fight against centralization, and to struggle and strive with all that is within us, to build up the character, preserve the strength, and increase the practical wisdom of our rulers, the citizens of the United States.

EXECUTIVE SESSION

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in excutive session the doors were reopened, and the Senate (at 5 o'clock and 5 minutes p. m.) adjourned until to-morrow, Tuesday, December 14, 1926, at 12 o'clock meridian.

## CONFIRMATIONS

*Executive nominations confirmed by the Senate December 13, 1926*

### POSTMASTERS

ALABAMA

Levi A. Knapp, Auburn.
Anna M. Nabors, Boothton.
Clifford T. Harris, Columbia.
Rosa Sutherland, Double Springs.
Lillian R. Maugans, Eufaula.
Annie H. Smith, Fort Deposit.
Kate E. Gilbert, Geiger.
Jennie Y. Wallace, Gorgas.
Lee M. Otts, Greensboro.
John L. Shotts, Hamilton.
William W. Agee, Lamison.
Silas E. Sanderson, Leighton.
William R. Bailey, Newbern.
Mary E. Wood, New Hope.
Dona M. McMillan, Repton.
Annie J. McArthur, Riderwood.
Walker T. Stewart, Sylacauga.

ARIZONA

Mary A. McGee, Florence.
Patrick D. Ryan, Fort Huachuca.
William E. Mullen, Ray.

CALIFORNIA

Ethel R. Nance, Coachella.
Frederick W. Corkill, Death Valley.
Warner Rathyen, Encinitas.
Noah A. Mackey, Imperial.
Anna E. M. Parsons, Lake Arrowhead.
Clarence L. Pratt, Pacific Beach.
Frederic W. Stahler, Yorba Linda.

CONNECTICUT

Guy M. Bartlett, Andover.
Charles K. Bailey, Bethel.
Helen S. Ladd, Bloomfield.
Howard A. Middleton, Broad Brook.
Elbert B. Austin, Cromwell.
Thomas C. Brown, Elmwood.
Howard J. Stanclift, jr., New Hartford.
Hervey W. Wheeler, Newtown.
Anthony Hansen, North Windham.
Archibald Macdonald, Putnam.
Thomas B. McDonald, Sharon.
Edmund E. Crowe, South Norwalk.
Edward Adams, Taftville.
Abigail B. Lathrop, Warehouse Point.

FLORIDA

Joseph A. Brenk, Boca Raton.
Claude C. Coleman, Canal Point.
Add Joyce, Cedar Keys.
Charles T. Hummer, East Winter Haven.
Mae H. Schweitzer, Florida City.
Marguerite R. Keeley, Fulford.
Alice Adams, Hallandale.
Gillian A. Sandifer, Lake Helen.
Henriette Lynott, Miami Shores.
Edward Roberts, Odessa.
Richard M. Hall, St. Petersburg.
Newell B. Hull, Starke.
William W. Rees, Tavares.
Kate Welliver, Venice.

IDAHO

Charles B. Billups, Nezperce.

ILLINOIS

Robert M. Farthing, Mount Vernon.

INDIANA

Frank B. Rowley, Angola.
Benjamin F. Pitman, Bedford.
William B. Thornley, Jeffersonville.
Sam J. Bufkin, Newcastle.
Taylor H. Johnson, Plainfield.
Edward M. Ray, Scottsburg.
George E. Young, Shelbyville.

KANSAS

Philip F. Grout, Almena.
Jacob L. Ritter, Bronson.
Wiley Caves, Inman.
Charles O. Bollinger, Iola.
Gilbert E. Goodson, La Cygne.
David D. McIntosh, Marion.
Louella M. Holmes, Mound City.
John F. Oliver, Oxford.
Walter R. Dysart, Parker.
Belford A. Likes, Pomona.
Bessie W. Brennan, Strong.
William A. Walt, Thayer.
Ezra E. Shields, Wathena.
Lee Mobley, Weir.
William B. Hart, Westmoreland.
Elmer Alban, Westphalia.

MICHIGAN

Arthur B. Backus, Harbor Springs.

MISSISSIPPI

Preston T. Smith, Itta Bena.

NEW HAMPSHIRE

Russel B. Henchman, East Jaffrey.
Nellie L. Mason, Greenfield.
Frank E. West, Lyme.
Orriman K. Whipple, Sugar Hill.
Carlton E. Sparhawk, Walpole.

NEVADA

Carl F. Erickson, Lovelock.

NEW YORK

Edward J. Woods, Bayport.
William F. Winterbotham, Old Forge.
William A. Eagleson, Staten Island.

NORTH CAROLINA

Ella E. Meshaw, Council.
Pat L. Whitehead, Enfield.
Fred H. Morris, Kernersville.
Nollie M. Patton, Morganton.
John L. Dixon, Oriental.
John L. Vest, Rosemary.
Lula M. Choate, Sparta.

OHIO

Jennie B. Coburn, Amherst.
Cleona M. Dunnick, Ashville.
Charles E. McClelland, Attica.
Velma T. Dunlap, Avon Lake.
Emmanuiel M. Flower, Blackfork.
J. Schuyler Hossler, Bloomville.
James U. Riley, Brookville.
William H. Lambert, Delta.
Harry S. Juday, Eldorado.
Robert J. Pollock, Fairpoint.
James M. Leatherman, Hoytville.
Charles S. Case, Jefferson.
Howard J. Swearingen, Kensington.
Ida C. Steinman, Logan.
Joseph Jameson, Lorain.
Harvey C. Wilson, Lyons.
Earl C. Mikesell, New Paris.
Stanley O. Kerr, Ottawa.
Harry E. Cahill, Pandora.
Bert E. Woodward, Stryker.
Dora D. Doughty, Walbridge.
Ross H. Hartsock, Waynesville.

TENNESSEE

Samuel N. Barr, Baxter.
William S. Brooks, Cumberland Gap.
Sam A. Winstead, Dresden.
John M. Thompson, Englewood.
Mary E. Ferguson, Gates.
Mary P. McNeely, Humboldt.
William H. Jones, Lancing.

TEXAS

Robert L. Jones, Celeste.
Sallie E. St. Jacque, Higgins.
William E. Singleton, Jefferson.
William A. Gatlin, Lakeview.
Fannie Stieber, Rocksprings.
George E. Longacre, Tyler.

## HOUSE OF REPRESENTATIVES

MONDAY, *December 13, 1926*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Holy! Holy! Holy! Lord God Almighty, we come to Thee with humble confidence, which is inspired by Thy unfailing providential care. How amazingly free is Thy bountiful mercy! Do Thou continue with us, blessed Lord, that we may rise to the highest plane of life, where all lower feelings cease to rule. We would accept our duties with cheerfulness. Teach us how to use the world with wisdom and how to make all things serve our fellow men. May there be essential unity of purpose throughout our country and the blessing of peace and good will in all the earth. In the adorable name of Jesus. Amen.

The Journal of the proceedings of Saturday, December 11, was read and approved.

AGRICULTURAL APPROPRIATION BILL

Mr. MAGEE of New York, from the Committee on Appropriations, by direction of that committee, reported the bill (H. R. 15008) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1928, and for other purposes (Rept. No. 1619), which, with the accompanying papers, was referred to the Committee of the Whole House on the state of the Union and ordered printed.

Mr. BYRNS reserved all points of order.

SESSIONS OF COMMITTEE ON MILITARY AFFAIRS

Mr. JAMES. At the unanimous suggestion of the House Committee on Military Affairs, Mr. Speaker, I ask unanimous consent that the Committee on Military Affairs of the House, and its subcommittees, be allowed to sit while the House is in session for the holding of hearings and for the consideration of bills.

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

There was no objection.

INTERIOR DEPARTMENT APPROPRIATION BILL

Mr. CRAMTON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 14827) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1928, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 14827, with Mr. MICHENER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. The Clerk will read.

The Clerk read to line 14, on page 5.

Mr. CRAMTON. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Michigan offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. CRAMTON: On page 5, line 11, strike out "$135,000" and insert in lieu thereof "$125,000."

Mr. CRAMTON. This is to correct a typographical error or a clerical error and to make the amount conform to the appropriation named in the paragraph.

The amendment was agreed to.

The Clerk read as follows:

Surveying public lands: For surveys and resurveys of public lands, examination of surveys heretofore made and reported to be defective or fraudulent, inspecting mineral deposits, coal fields, and timber districts, making fragmentary surveys, and such other surveys or examinations as may be required for identification of lands for purposes of

evidence in any suit or proceeding in behalf of the United States, under the supervision of the Commissioner of the General Land Office and direction of the Secretary of the Interior, $800,000: *Provided*, That the sum of not exceeding 10 per cent of the amount hereby appropriated may be expended by the Commissioner of the General Land Office, with the approval of the Secretary of the Interior, for the purchase of metal or other equally durable monuments to be used for public-land survey corners wherever practicable: *Provided further*, That not to exceed $10,000 of this appropriation may be expended for salaries of employees of the field surveying service temporarily detailed to the General Land Office: *Provided further*, That not to exceed $15,000 of this appropriation may be used for the survey, classification, and sale of the lands and timber of the so-called Oregon & California Railroad lands and the Coos Bay Wagon Road lands: *Provided further*, That not to exceed $50,000 of this appropriation may be used for surveys and resurveys, under the rectangular system provided by law, of public lands deemed to be valuable for oil and oil shale: *Provided further*, That no part of this appropriation shall be available for surveys or resurveys of public lands in any State which, under the act of August 18, 1894 (128 Stats. p. 395), advances money to the United States for such purposes for expenditure during the fiscal year 1928: *Provided further*, That whenever the Commissioner of the General Land Office shall find that the expense of travel can be reduced thereby he may, in lieu of actual operating expenses, under such regulations as he may prescribe, authorize the payment of not to exceed 7 cents per mile for an automobile used on official business: *Provided further*, That this appropriation may be expended for surveys made under the supervision of the Commissioner of the General Land Office, but when expended for surveys that would not otherwise be chargeable hereto it shall be reimbursed from the applicable appropriation, fund, or special deposit.

Mr. COLTON. Mr. Chairman, I make a point of order against the proviso on page 9, lines 21 to 25, that it is legislation on an appropriation bill; and if there is any question about my point being well taken, I would like to be heard.

The CHAIRMAN. The Chair will be pleased to hear the gentleman.

Mr. COLTON. Mr. Chairman, I understand if this proviso is justified at all, it is justified on the ground of being a limitation on an appropriation, and if it is a limitation under the Holman Rule it must be bottomed upon one of three propositions. It must either reduce the salaries of employees of the United States, or it must reduce the number of employees or it must reduce the amount appropriated in this bill.

It is obvious, Mr. Chairman, that it does not do either one of these three things. If these words are continued in the bill, that will not reduce the amount appropriated in the bill at all. The fact of the matter is, Mr. Chairman, I think it must be admitted that this is an attempt to nullify or in effect repeal the provisions of an existing statute, namely, the act of August 18, 1894. This can not be done on an appropriation bill. I may say, incidentally, Mr. Chairman, that a bill to repeal the statute of August 18, 1894, is already being considered by a regular standing committee of this House, and this attempt to do indirectly what the rules forbid directly can not be justified.

I take it the Chair is familiar with the reading of subdivision 2 of Rule XXI. I only need, perhaps, to call the Chair's attention to it. The part of subdivision 2, Rule XXI, to which I want to call the Chair's especial attention, is this:

> Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

This, of course, refers to appropriation bills.

Now, Mr. Chairman, if a provision in an appropriation bill, which is an attempt at a limitation, is not bottomed on one of these three propositions it must fail, and I think it is perfectly obvious that this language is not bottomed on any one of those three propositions, and in my judgment it is clearly and obviously out of order.

There are a number of rulings by previous occupants of the Chair, one particularly by the distinguished minority leader, which I believe is found on page 502 of the Book of Rules, which expressly states in clear language the point I have tried to bring to the attention of the Chair here this morning. It is admitted, in view of the statement of the chairman of the subcommittee, that this is intended to, in effect, nullify the provisions of the act of August 18, 1894.

Mr. CRAMTON. The whole difficulty with the gentleman's argument lies in his assumption that the proviso in question does change existing law. As a matter of fact the proviso does not change existing law. If this bill becomes a law, the act of 1894 continues in full force and effect. Under this proviso it is stated that no part of the $800,000 carried in this paragraph shall be available for use in any State that makes advances to the Government under the act of 1894. If the bill becomes a law as presented to the House, what is the effect? The act of 1894 continues in effect, and the State of Utah can continue to make advances and the Interior Department can continue to accept the advances, and the General Land Office can continue to use the money, and immediately after they have used the money the State of Utah can present the item for reimbursement, and it would be in order in an appropriation bill to reimburse it. There is no change made in the law by this proviso. All the proviso does is to limit the object and expenditure and use of the money. That is the function of the Appropriations Committee, to recommend to the House, within lawful purposes, for what purpose the money shall be used.

It would have been entirely in order for the committee to have recommended to the House that of this $800,000 no part should be used in the State of Utah. Whether it was wise or not, that would be within the jurisdiction of our committee. On the contrary, it would have been within the jurisdiction of the committee to provide that the whole $800,000 should be used in the State of Utah and carry no money for any other State. In other words, all we have done is to say that the $800,000 shall not be used in States that do a certain thing. That involves no task on the discretion of any official, that changes no law; it is purely a designation of the purpose for which the appropriation can be used and is entirely in order.

Mr. COLTON. Mr. Speaker, if I may reply to the gentleman, I presume that the Chair is familiar with the act of August 18, 1894, which provides that a State may advance money for the survey of public lands within its borders and that the Government shall reimburse the State for such advances. The only object of that provision is to enable the State to hasten the survey of public lands within its borders. This limitation provides that if they do that they shall not share in the benefits of this fund.

The gentleman from Michigan gets away from the question; he admits that it is a limitation. If it is a limitation, it must be bottomed on one of the three propositions set forth in Rule XXI.

Mr. CRAMTON. The gentleman fails to distinguish between legislation and limitation. If it was legislation, it would have to be bottomed on the provision that the gentleman speaks of. This is not legislation.

Mr. COLTON. The gentleman admits that this is a limitation?

Mr. CRAMTON. It is certainly a limitation, and within the jurisdiction of the Appropriations Committee.

Mr. COLTON. I submit that if it is a limitation that nullifies a statute, it comes squarely within the provisions of Rule XXI, and must either reduce the number of employees or reduce the salaries of employees, or reduce the amount appropriated in the bill.

The CHAIRMAN. The Chair is familiar with the rule, and appreciates the logic of the gentleman from Utah. However, it seems to the Chair that the holdings in the past have clearly been that a limitation is not necessarily required to retrench expenditures to be held in order. It has been held in a number of cases that the designation of the purpose for which an appropriation is to be spent is in order. Since the House may decline to appropriate for a purpose authorized by law, it may by limitation prohibit the use of the money for a part of the purpose while appropriating for the remainder of it. The Chair feels that that is all that this particular provision in the bill does. It simply designates where this money shall not be spent, and if the Chair is right in that conclusion, then the provision is in order, and the Chair therefore overrules the point of order

Mr. COLTON. Mr. Chairman, I move to strike out the last word. Mr. Chairman, inasmuch as the chairman of the subcommittee in his remarks the other day spoke especially against the State of Utah, I want to make this statement: Under the provisions of the act of August 18, 1894, the State of Utah has only once made an advance for the survey of public lands within its borders. It did advance at one time the sum of $100,000, because it was specially anxious that the survey of certain public lands should be made. That has been reimbursed in three different installments, one of $50,000, one of $40,000, and one of $10,000, respectively. So that the practice, so called, as pointed out by the Chairman the other day has been carried out only to the extent that I have indicated. Only once was such an appropriation made. I believe, however—and, Mr. Chairman, what I say is said with due respect for the distinguished Chairman—that a dangerous precedent has been established. When a subcommittee of the Committee on Appropriations can come in here and in effect nullify an

existing statute by a limitation of this kind, we are treading on dangerous ground. It simply means that if any State advances money under the act of August 18, 1894, to hasten the survey of its public lands, which really is of great benefit to the Government, then that State shall not participate in the general fund appropriated for the survey of public lands, and to all intents and purposes that does nullify and set aside an existing statute—substantive law. I believe it is a dangerous precedent, and I regret very much that the language of this bill has been held in order by our esteemed Chairman.

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

Mr. COLTON. Mr. Chairman, I move to strike out the proviso included within lines 21 to 25, on page 9.

The CHAIRMAN. The gentleman from Utah offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. COLTON: Page 9, beginning in line 21, strike out the proviso ending in line 25.

Mr. COLTON. Mr. Chairman, in effect I have already spoken upon this amendment, so I only have a few things to say in addition to what I have already said. Am I allowed additional time under my amendment?

The CHAIRMAN. Without objection, the gentleman will be recognized.

Mr. COLTON. I do not want to take up the time of the committee if it is not a matter of right.

The CHAIRMAN. Without objection, the Chair will recognize the gentleman.

Mr. COLTON. Mr. Chairman and gentlemen, I think before the committee goes on record and leaves in an appropriation bill language of this kind that it should really understand the situation. In case of an emergency or an abuse of a statute, Congress could well afford to do this, but, as I pointed out, there has been no abuse of the act of August 18, 1894. My State has made use of its provisions once in 10 years. That is not a habit. It has been a very great benefit to the States of the West to have the public lands in their borders surveyed, but it is also a very great benefit to the Government itself. The policy of the Government is to get these lands into private ownership as soon as possible. The act of August 18, 1894, was passed in aid of that policy, and because my State on one occasion only has advanced money and has had surveyed for the benefit of the Government and the people of the State a part of the public domain, it is now openly sought to penalize that State by providing that if it does that again it shall not participate in the funds appropriated for the survey of the public lands. I can not conceive of a plainer case of an attempt on the part of the Appropriations Committee to nullify an existing law.

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

Mr. COLTON. Yes.

Mr. CHINDBLOM. Under the act of 1894, as I understand it, the State of Utah has determined itself what lands shall be surveyed.

Mr. COLTON. Oh, no. It simply makes application to the General Land Office that the Government shall survey the public lands.

Mr. CHINDBLOM. But the State of Utah determines what lands it wants surveyed.

Mr. COLTON. No. It makes application for a survey of these lands, and then the discretion is with the department as to whether it shall survey them or not. My State once appropriated $100,000 to secure a survey of certain lands. It made application and had the land surveyed. Then, under the provisions of the act of August 18, 1894, it made application for reimbursement, and the State was reimbursed in three installment payments. Because it did that it is now attempted by this limitation to say that if it ever does that again it shall not participate in this fund appropriated for the survey of public land.

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

Mr. COLTON. Yes.

Mr. HUDSON. About how many States would be affected by this?

Mr. COLTON. Any State having public land within its border may be affected by it.

Mr. CHINDBLOM. Is the gentleman quite certain that the effect of this legislation is that if the State of Utah ever does this again, it will be barred from participating?

Mr. COLTON. Until 1928.

Mr. CHINDBLOM. Of course. It applies only to this appropriation.

Mr. COLTON. Ah, but you are setting a precedent, and it will be continued next year and the next year and so on. Why make the limitation at all? The principle is not wrong.

Mr. CHINDBLOM. That is a matter for the future.

Mr. COLTON. It was stated here that it was for the purpose of nullifying the work done under the act of August 18, 1894.

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

Mr. TAYLOR of Colorado. Mr. Chairman and members of the committee, I rise to say only a few words in supplement of what the chairman, Mr. CRAMTON, has said. This is a proposition primarily as to whether the States or the Congress shall appropriate the Federal money for the public land surveys, and determine what land shall be surveyed and when, and also whether or not it or any of it shall be surveyed. We do not feel that the State of Utah or any other State has the right to interfere with the orderly survey of the public domain in the West by simply advancing a large sum of money—$100,000 or $1,000,000—if they want to, and, having done so, practically compelling the Government to make such survey, and where and when and to what extent as they see fit, and when the survey is made by the Government surveyors, then compelling the Federal Government to promptly pay back to the State all the money that it has advanced.

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

Mr. TAYLOR of Colorado. I can not; I have only five minutes. We do not feel that we ought to surrender that Federal governmental function to any State. It is true that no State has ever taken advantage of that act of Congress of August 18, 1894, except the State of Utah, but that is one reason why we put this limitation in during the period of this year. Utah has advanced $100,000. We have been compelled to promptly refund all that money to Utah, and our Federal public-land surveyors have been compelled to quit work at other places just as deserving and go and survey Utah lands and leave a large part of the rest of the States without a survey. Nearly every other western State has public lands urgently needing a survey, and every such State wants its lands surveyed as well as Utah. Of course, if they would come in under this bill and advance the money, the Government would have to stop surveys already begun and go and survey for the States that advanced the money.

It is a proposition wholly unfair to the other States. It disorganizes the orderly survey of the public domain by the Federal Government. It is palpably unjust to every other Western State and unfair to the Government of the United States to compel the United States surveying officers to go and survey any one State simply because it temporarily advances the money and gets the survey and gets the money right back again. I do not understand that Utah has got any interest on her temporary advancement in addition to getting her lands surveyed in preference to all the other Western States. Maybe she will bring in a bill for that later.

Mr. HUDSON. Will the gentleman yield?

Mr. TAYLOR of Colorado. I will.

Mr. HUDSON. How much does the bill carry for surveying the public lands?

Mr. TAYLOR of Colorado. I have forgotten the exact sum. My recollection is it is over $800,000.

Mr. HUDSON. This does not cut down the survey of the public lands?

Mr. TAYLOR of Colorado. No; not at all. This provision in the bill simply prevents the State of Utah from appropriating another $100,000 and then saying to the Government of the United States, "Here, we have raised this money and we insist under that act that you again drop your work in the other States and come and survey Utah and also pay us back that money very quick."

Mr. TIMBERLAKE. Will the gentleman yield?

Mr. TAYLOR of Colorado. I will.

Mr. TIMBERLAKE. Do I understand the gentleman to say if any State under the provisions of the act of 1894 advances a sum of money for a resurvey that they can have a preferential right?

Mr. TAYLOR of Colorado. Yes; they can under that act advance the money and practically compel a prompt survey and also a very prompt refund of their money. Any State can create a revolving fund sufficient to get all her lands surveyed ahead of all the other States and at the expense of Uncle Sam, and get all of her money back. All the State is out is the use of her money for a while during the survey.

Mr. COLTON. If the gentleman will permit, in the interest of accuracy the gentleman does not want us to infer there is no discretion upon the part of the Government. It is optional.

Mr. TAYLOR of Colorado. Under the provisions of that law obligations of the Government to make the survey is practically mandatory, and the act says the Government "shall promptly refund the money to the State."

Mr. COLTON. It is mandatory to pay it back and not as to the survey; that is optional with the department.

Mr. TAYLOR of Colorado. I do not think the General Land Office has very much option.

The CHAIRMAN. The time of the gentleman has expired.

Mr. TAYLOR of Colorado. I feel that the provision we have inserted in the bill is eminently fair and just to the rest of the States and to the Federal Government. That act of August 18, 1894, should be repealed. It permits a species of favoritism that should not be tolerated.

Mr. CRAMTON. Mr. Chairman, my colleague well stated the conditions of this work of survey as a result of the policy the State of Utah entered upon, so I want to emphasize just what the policy seems to be for which my friend from Utah is contending. Under the act of 1894 that State can tender money to the Federal Government to be used in surveying the land of that State, and they insist the Government must accept their tender when it is made, to be spent in that State, and as soon as it is spent the State presents their bill and the Government pays it back to the State of Utah. For instance, in 1924 they advanced $50,000; in 1925, $40,000; and in 1926, $10,000; at least those are the years when the money was refunded, making a total of $100,000, and now they have created a revolving fund of $100,000 which they propose to feed to the Federal Government as fast as we take it, with the result that the State of Utah determines how much money the Federal Government will spend on surveys instead of the Congress determining that fact. Now we are offering $800,000 in appropriation, of which some $50,000 or $60,000 will be allotted to the State of Utah under the provisions in the bill. It does not provide they can not make advances, but if they do they will have to get along with the advance instead of getting any allocation out of the $800,000.

Mr. COLTON. Does the gentleman understand the Interior Department is bound to comply with the request of the State for a survey of lands when application is made? Is it not entirely within the discretion of the Secretary of the Interior?

Mr. CRAMTON. The law does not say. I assume there is some degree of discretion, but if the gentleman will say and has authority for his State to say that the department is not bound to accept advances unless they want to, I will be quite contented.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Utah.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

GENERAL EXPENSES

For transportation and incidental expenses of officers and clerks of the Office of Indian Affairs when traveling on official duty; for telegraph and telephone toll messages on business pertaining to the Indian Service sent and received by the Bureau of Indian Affairs at Washington, and for other necessary expenses of the Indian Service for which no other appropriation is available, $16,000: *Provided*, That not to exceed $1,000 of this appropriation may be used for continuing the work of the competency commission to the Five Civilized Tribes of Oklahoma: *Provided further*, That not to exceed $1,000 of the amount herein appropriated may be expended out of applicable funds in the work of determining the competency of Indians on Indian reservations outside of the Five Civilized Tribes in Oklahoma.

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

The CHAIRMAN. The gentleman from Oklahoma offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. HASTINGS: Page 12 line 17, strike out "$1,000" and insert in lieu thereof "$5,000."

Mr. HASTINGS. Mr. Chairman, if I may have the attention of the chairman of the subcommittee, let me say that the item carried in the current law is $5,000. This is not required to be expended. It is only permissive, and it may be expended if it is thought necessary.

If I may have the attention of the chairman of the subcommittee and the Members of the House I want to call attention to the reason why this appropriation for this year should be increased.

Mr. CRAMTON. Mr. Chairman, if the gentleman will yield, I want to make one statement, then if the gentleman wants to increase the limitation I want to speak further. There was an item of $90,000, with a limitation that $5,000 shall be used for this purpose and $15,000 for the purpose named in the next sentence. But we found there was $75,000 in that item for employees. We have transferred that to a place elsewhere in the bill, leaving only $15,000 as a total under this provision. It did not look good to leave $5,000 available for one purpose and $15,000 for another. That is more than the bureau needs this year. Of course, to raise the amount to $5,000 does not raise the amount to be expended. I do not see any purpose in the gentleman's amendment.

Mr. HASTINGS. I will explain to you, if you will bear with me, in a moment. Under the several agreements with the Five Civilized Tribes all restrictions upon the Indians expire in 1931. There is legislation introduced and pending before the Committee on Indian Affairs to extend that restrictive period. The sentiment in the State of Oklahoma—and I express to some degree the sentiment of the Oklahoma delegation—is that there should be an intensive survey made of those who need to have their restrictions extended prior to the enactment of legislation further extending the restrictive period beyond 1931. In the last year the Indian Bureau has taken a census of the restricted Indians of the Five Civilized Tribes. The report shows that there are 9,100 enrolled restricted members of the Five Civilized Tribes of full Indian blood, and this report also shows that there are 2,286 of half or more Indian blood, making a total of 11,386 living enrolled restricted members of the Five Civilized Tribes.

I think I speak for the Oklahoma delegation and the people of Oklahoma when I say that it is the general belief that the competency commission should further survey the living members of the Five Civilized Tribes with a view of determining what members should be released from the supervision of the department before this pending legislation is acted upon.

Now, I know that this expenditure is only permissive. I hope the chairman of the subcommittee will not oppose it. If it is not thought desirable to be used——

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

Mr. HASTINGS. I am going to ask for two additional minutes.

The CHAIRMAN. The gentleman from Oklahoma asks to proceed for two additional minutes. Is there objection?

There was no objection.

Mr. HASTINGS. If it is not thought desirable to use it by the department within the next year, of course it will not be used.

In connection with my remarks, Mr. Chairman, I want to insert a table which I have already referred to, showing the number of living restricted Indian members of the Five Civilized Tribes.

Mr. CRAMTON. Mr. Chairman, I rise to oppose the amendment. In the first place, the Indian Bureau says they will not need any money for this purpose at this time, and in the next place the item does not really make any money available for that purpose. The amount given is necessary for allocations for another purpose. When it is proposed to do something under this commission, then the estimate would come through the Indian Bureau and through the Budget in the regular way.

Mr. HASTINGS. If the gentleman will yield, I did not get a copy of these hearings until Saturday. I had no opportunity to appear before the committee. I did not know that this appropriation was reduced.

I might be frank enough to say to the Members of the House that if this appropriation is going to be cut down to only a thousand dollars and only a thousand dollars can be used by the competency commission for the Five Civilized Tribes after June 30, next, you might as well eliminate the whole appropriation.

Mr. CRAMTON. Does the gentleman know how much has been expended heretofore for this purpose?

Mr. HASTINGS. I know; but it has not been impressed on the Bureau of Indian Affairs that this intensive survey should be made before action is had on pending legislation to extend the restrictive period, and it is important that we should have that information if the Indian Office expects to secure favorable action on their recommendation. We want to eliminate those that are competent to attend to their own affairs.

Mr. CRAMTON. I will ask the gentleman if the amount in the next paragraph is satisfactory to the gentleman? Is this the only amendment that the gentleman has in mind to offer to this paragraph? If the gentleman confines himself only to that amendment and accepts the understanding that our action is not to be taken as directing the Indian Bureau to make a larger expenditure, but simply make the money available, I will accept the amendment.

Mr. HASTINGS. I accept the gentleman's suggestion.

The report of the living restricted members of the Five Civilized Tribes is as follows:

*List of living enrolled restricted members of the Five Civilized Tribes, by counties*

| County | Number of full bloods | Number of less than full blood but one-half or more | Total |
|---|---|---|---|
| Mayes | 424 | 80 | 504 |
| Craig | 72 | 28 | 100 |
| Nowata | 17 | 30 | 47 |
| Ottawa | 7 | 8 | 15 |
| Delaware | 493 | 51 | 544 |
| Tulsa | 193 | 88 | 281 |
| Rogers | 15 | 16 | 31 |
| Washington | 121 | 48 | 169 |
| Creek | 317 | 62 | 379 |
| Okmulgee | 328 | 60 | 388 |
| Okfuskee | 409 | 96 | 505 |
| McIntosh | 491 | 110 | 601 |
| Muskogee | 77 | 47 | 124 |
| Haskell | 150 | 55 | 205 |
| Wagoner | 78 | 24 | 102 |
| Cherokee | 604 | 193 | 797 |
| Adair | 434 | 149 | 583 |
| Sequoyah | 282 | 61 | 343 |
| Pittsburg | 143 | 62 | 205 |
| Latimer | 115 | 28 | 143 |
| Le Flore | 237 | 62 | 299 |
| Hughes | 560 | 101 | 631 |
| Seminole | 520 | 163 | 683 |
| Pontotoc | 181 | 35 | 216 |
| Jefferson | 7 | 9 | 16 |
| McClain | 13 | 9 | 22 |
| Carter | 123 | 59 | 182 |
| Garvin | 72 | 13 | 87 |
| Grady | 8 | 16 | 24 |
| Love | 51 | 22 | 73 |
| Murray | 104 | 42 | 146 |
| Stephens | 29 | 9 | 38 |
| Bryan | 313 | 81 | 394 |
| Marshall | 185 | 45 | 230 |
| Johnston | 234 | 94 | 328 |
| Atoka | 266 | 52 | 318 |
| Coal | 112 | 34 | 146 |
| McCurtain | 736 | 39 | 777 |
| Choctaw | 313 | 53 | 366 |
| Pushmataha | 294 | 50 | 344 |
| Total | 9,100 | 2,286 | 11,386 |
| The Cherokee Nation: | | | |
| Mayes | 424 | 80 | 504 |
| Craig | 72 | 28 | 100 |
| Nowata | 17 | 30 | 47 |
| Ottawa | 7 | 8 | 15 |
| Delaware | 493 | 51 | 544 |
| Tulsa | 62 | 26 | 88 |
| Rogers | 15 | 16 | 31 |
| Washington | 121 | 48 | 169 |
| Wagoner | 10 | 3 | 13 |
| Cherokee | 604 | 193 | 797 |
| Adair | 434 | 149 | 583 |
| Sequoyah | 282 | 61 | 343 |
| Muskogee | 30 | 16 | 46 |
| McIntosh | 50 | 11 | 61 |
| Total | 2,621 | 720 | 3,341 |
| The Choctaw Nation: | | | |
| Pittsburg | 143 | 62 | 205 |
| Latimer | 115 | 28 | 143 |
| LeFlore | 237 | 62 | 299 |
| Hughes | 100 | 10 | 110 |
| Bryan | 209 | 55 | 264 |
| Atoka | 266 | 52 | 318 |
| Coal | 112 | 34 | 146 |
| McCurtain | 738 | 39 | 777 |
| Choctaw | 313 | 53 | 366 |
| Pushmataha | 294 | 50 | 344 |
| Total | 2,527 | 445 | 2,972 |
| The Chickasaw Nation: | | | |
| Haskell | 150 | 55 | 205 |
| Pontotoc | 181 | 35 | 216 |
| Jefferson | 7 | 9 | 16 |
| McClain | 13 | 9 | 22 |
| Carter | 123 | 59 | 182 |
| Garvin | 72 | 15 | 87 |
| Grady | 8 | 16 | 24 |
| Love | 51 | 22 | 73 |
| Murray | 104 | 42 | 146 |
| Stephens | 29 | 9 | 38 |
| Bryan | 104 | 25 | 129 |
| Marshall | 185 | 45 | 230 |
| Johnston | 234 | 94 | 328 |
| Total | 1,261 | 435 | 1,696 |
| The Creek Nation: | | | |
| Tulsa | 131 | 63 | 194 |
| Creek | 317 | 62 | 379 |
| Okmulgee | 328 | 60 | 388 |
| Okfuskee | 409 | 96 | 505 |
| McIntosh | 441 | 99 | 540 |
| Wagoner | 68 | 21 | 89 |
| Hughes | 430 | 91 | 521 |

*List of living enrolled restricted members of the Five Civilized Tribes, by counties*—Continued

| County | Number of full bloods | Number of less than full blood but one-half or more | Total |
|---|---|---|---|
| The Creek Nation—Continued | | | |
| Seminole | 50 | 16 | 66 |
| Muskogee | 47 | 31 | 78 |
| Total | 2,221 | 539 | 2,760 |
| The Seminole Nation: Seminole | 470 | 147 | 617 |
| SUMMARY | | | |
| Cherokee Nation | 2,621 | 720 | 3,341 |
| Choctaw Nation | 2,527 | 445 | 2,972 |
| Chickasaw Nation | 1,261 | 435 | 1,696 |
| Creek Nation | 2,221 | 539 | 2,760 |
| Seminole | 470 | 147 | 617 |
| Total | 9,100 | 2,286 | 11,386 |

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LAGUARDIA. Mr. Chairman, I move to strike out the last word. Coming from the East and from a district where the only contact I have with Indians is the Tammany Braves, I am simply wondering when the Indian Bureau will be able to close its doors and discontinue its affairs. Here we appropriate $12,901,000 for the Indian Bureau. I remember 35 years ago, and 30 years ago, when I went to school in Arizona, that the Indian children went to school with us and lived right next door to us. They have grown up now, and they have been educated. I wonder how much of this guardianship the Indians really want. It seems to me they would be far better off if the Indian Bureau would simply close its doors. Of course, it may result in the loss of a good many jobs, but would not the Indians be better off if we could turn over the property to them that they properly own and discontinue all of this supervision? It must be very irksome and unpleasant to them, I should think, to have an army of job holders supervise them. The Indians now own considerable property, and I believe that they are well able to manage it. Why should we continue the same system that was created many, many years ago, after the frontier days, a system which is the same to-day as it was 40 years ago? We have educated a new generation of Indians in the meantime and yet insist upon treating them as incompetents. When I was a boy out in Arizona I remember that the worst thing you could call a man was a "horse thief," and then the next thing was to say that "he was as crooked as an Indian agent." I do not suppose the Indian agents to-day are as crooked as they were then—at least, I hope not—but I should like to know from some of you gentlemen who are experts in this matter how long it will be before the Indians of this country can come into their own and the entire Indian Bureau closed, and give the Indians the chance and the opportunity they should have.

Mr. LOWREY. Will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. LOWREY. Does the gentleman know how many Indians there are now under this bureau?

Mr. LAGUARDIA. There can not be very many.

Mr. LOWREY. I ask that for information.

Mr. LAGUARDIA. I am informed that there are something like 300,000.

Mr. LOWREY. And we appropriate $12,000,000 annually to take care of 300,000?

Mr. LAGUARDIA. Yes. Would it not be better to give them an annual allowance and close the bureau? They certainly would be better off.

Mr. McKEOWN. Will the gentleman yield?

Mr. LAGUARDIA. Certainly.

Mr. McKEOWN. I suggest to the gentleman that if they would spend a little money on turning loose the competent Indians from under the bureau it would result in reducing the appropriations.

Mr. LAGUARDIA. That is exactly what I am trying to say. I may be entirely wrong in this, but from my recollection as a boy and everything that confronts us now it seems to me there is something wrong somewhere.

Mr. HASTINGS. I do not care to enter into a general discussion, but let me say to the gentleman from New York that

there were enrolled 101,506 members of the Five Civilized Tribes. The Government now has under supervision about 11,386, so the gentleman will see that about 90,000 of the 101,506 have been entirely turned loose and are free of any supervision by the Indian Bureau. I do not have the exact figures as to the other tribes, but from time to time Indians in all of the tribes are being released from Government supervision. The report of the Indian Bureau indicates that there are about 349,000 Indians in the United States, but a very large number of them have been freed of any governmental supervision, the exact number of which I do not now recall.

Mr. LAGUARDIA. But the gentleman will concede that the per capita cost is enormous. I think we have too much Government supervision over them.

Mr. HASTINGS. The gentleman must understand, of course, that in the making of these rolls, in the allotment of their lands and having this individual supervision over them, the cost, of necessity, must greatly increase and be much more than if there was collective supervision over them, as was the case when they were on reservations.

Mr. LAGUARDIA. But my query is, would not the Indians be better off without it?

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

Mr. FREAR. Mr. Chairman, I rise in opposition to the gentleman's amendment simply for the purpose of making a brief statement. Commissioner Sells, in his report seven years ago, said that there were 220,000 Indians known as incompetent Indians who were then under the supervision of the department. I believe I have stated those figures correctly.

The Indian Commissioner states in the present report, as I understand it, that the number of incompetent Indians at the present time is 225,000; in other words, that they have increased from 220,000 seven years ago under Commissioner Sells to 225,000 under the present Indian Commissioner. Is that right?

Mr. CRAMTON. I am not familiar with those figures and I do not care to agree or disagree with the figures, but I do want to make this one suggestion: That there has been a great deal of guess work as to the number of Indians, especially the Navajoes; they have never been able to get any real census of the Navajoes and they have just been guessing how many Indians there were in those thousands of miles of desert waste, and, necessarily, their guesses from time to time have varied.

Mr. FREAR. Right in line with that suggestion, the hearings we have here disclose the fact that there are something like 300,000 Indians, or something over 300,000, showing that they have had some way of making a fairly accurate count.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. FREAR. Yes.

Mr. LAGUARDIA. When the gentleman says there are 225,000 incompetent Indians he does not use the word "incompetent" in a strict legal sense, does he?

Mr. FREAR. Absolutely.

Mr. LAGUARDIA. Does the gentleman mean to say that 225,000 Indians are incompetent in the same degree of mentality that would have to exist before a citizen would be declared incompetent?

Mr. FREAR. Not in the same degree of mentality but the same legal limitation.

Mr. LAGUARDIA. But they are not actually incompetent.

Mr. FREAR. No; but they are so held. They can not appeal to the courts and there is no way in which their competency can be determined.

Mr. LAGUARDIA. That is manifestly unfair to these Indians.

Mr. FREAR. That is what I have been suggesting, according to my limited understanding of the subject.

The pro forma amendment was withdrawn.

The Clerk read as follows:

For pay of special Indian Service inspector and two Indian Service inspectors, and actual traveling and incidental expenses, and not to exceed $4 per diem in lieu of subsistence when actually employed on duty in the field away from home or designated headquarters, $16,000.

Mr. CRAMTON. Mr. Chairman, I offer the amendments, which I send to the Clerk's desk.

The CHAIRMAN (Mr. DOWELL). The gentleman from Michigan offers amendments, which the Clerk will report.

The Clerk read as follows:

Amendments by Mr. CRAMTON: Page 14, lines 2 to 5, in line 2, strike out the word "actual"; in line 3, after the word "expenses," strike out everything down to and including the word "headquarters" in line 5.

Mr. CRAMTON. Mr. Chairman, the language which we propose there to strike out is unnecessary by reason of the general legislation on the matter of expenses.

The amendments were agreed to.

The Clerk read as follows:

For pay of judges of Indian courts where tribal relations now exist, at rates to be fixed by the Commissioner of Indian Affairs, $15,000.

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

On this occasion I want to state that, with the brief examination I have made of the hearings, I find more information on the subject of the Indian Office and its departments in the hearings than can be ascertained from any other place, and I compliment the chairman of the subcommittee, who has charge of this bill, because of the fairly exhaustive investigation he has made; but I do not agree with him, of course, on all the items. I appreciate he could take no other course, but this Indian-judge appropriation is one of the items which I do not believe is warranted, for reasons I have stated before in the House. There Indian judges are given $10 a month, and I understand from the hearing that the complaint has been made that criticisms were lodged against them because they are given only $10 a month. For that reason, possibly, the pay has been increased by this bill to approximately $15 a month for 70 of these so-called judges.

This is not the basis of criticism against Indian judges at all. The criticism is based on the fact that the Indians who are chosen for judges by the agent are usually friends of the Indian agent who appoints them and who determines whether or not their work is satisfactory to him. In some cases they have no proceedings at all, I was informed, on many reservations, nothing is before them during the year, and yet they are paid monthly this amount of money. In North Dakota and South Dakota, for instance, I know they do work up there and I know they are entitled to some pay, if you are willing to concede for the sake of the argument that they have any right to exist under the law.

Under the system the Indian agent to-day appoints the Indian judge. The Indian has no law to go by or observe, only rules from the bureau, so far as I can learn. He is subject to whatever action is taken by the so-called judge at that time. He can be incarcerated, made to work on highways, or can be jailed without any attorney, without any jury, without any right of appeal, without bail. These are points which I have heretofore raised, and I do not believe there is any justification for such judges.

To meet this situation, during the last session I offered a bill which I believed to be a fairly constructive bill, H. R. 9315, giving the Indian a right to jury trial and to appeal to higher courts in certain cases. Under existing law there are seven or eight causes of action where the Federal court passes upon the charges against the Indian in cases of felony and he has a jury trial and can claim all rights the same as other citizens. Now he is taken without any law before an Indian judge, occasionally without any apparent justification—I believe I can substantiate that statement—and yet we are paying here for 70 different judges a compensation of about $15 each, which is an increase over what they have been paid, namely, $10. This is all I care to say about the matter at this time. I want to make a motion afterwards to strike it out.

Mr. CRAMTON. Mr. Chairman, if the gentleman intends to make that motion, I would be glad if he would make it now and then I can talk on the motion.

Mr. FREAR. I want to make it on a different point.

Mr. CRAMTON. I wish the gentleman would conclude his discussion first.

Mr. FREAR. Then, Mr. Chairman, if I may withdraw the pro forma motion, I will submit a motion to strike out the paragraph.

The CHAIRMAN. The gentleman from Wisconsin offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. FREAR: Page 14, lines 6 to 8 inclusive, strike out the paragraph.

Mr. FREAR. This motion is made, Mr. Chairman, in order to be consistent with the claim that there is no law for and no justification for the existence of these Indian judges to-day, and that the Indian who is a citizen should have the same rights to a hearing and the same rights of jury trial that other citizens have. In this connection let me give you an illustration from my own State, which I have disclosed heretofore on this floor. An Indian, Moon by name, was chained with a ball and chain by an Indian agent, named Hammitt, in the Lac du Flambeau Reservation, Wis. For six months he was

sentenced and, according to a telegram from Governor Blaine, held in a foul, ill-smelling cell. Four affidavits were put in the record to show these facts, and Hammitt, the Indian agent who did this illegal act and who had charge of the case through the Indian judge, is to-day the man in charge of the reservation, and no punishment has occurred for the chaining of the Indian. No new condition has been brought about on the reservation so far as we know, or has anything been done to remedy this situation. This jailing and chaining occurred without a law. If the Indian had disobeyed the law, there is no doubt but that he ought to have been punished. The courts would deal with the case if a felony, but he was sentenced by an Indian judge.

I believe we should refuse to make this appropriation that is without any justification in law. The amount is about 50 per cent larger than it was last year or practically so. It was $8,200 last year, and the proposed appropriation here is $15,000. If we refuse to make the appropriation we will then probably enact some constructive legislation giving Indians the right to appear before a real court and jury and have proper hearings.

Mr. Chairman, let me repeat, this case of the mistreatment of Indians by an Indian agent. Take the Wisconsin case. Governor Blaine, of Wisconsin, sent to President Coolidge the following telegram:

MADISON, WIS., *February 15, 1926.*

President CALVIN COOLIDGE.
*Washington, D. C.:*

Responsible woman, whose word I believe, reports that Paul Moore, an Indian, charged with a misdemeanor, was found on January 26 at Lac du Flambeau (Wis.) Agency jail, in a cell 6 by 8 feet, with clogged toilet, and with ball and chain fastened to ankle. In same jail were incarcerated Indian women. This condition is abhorrent to the dictates of decency and our vaunted civilization. This is the tyranny of the Dark Ages and the practice of the degenerate dominate to terrorize the Indian who needs help more than a jail. In the name of humanity, I beg that that sort of thing cease.

JOHN J. BLAINE, *Governor.*

As excuse of such action Mr. Burke says (p. 26 of the hearings) before the Indian Committee:

Paul Moore, together with two other Indians, took three Indian girls of the Lac du Flambeau Reservation and spent three nights with them. One girl is now in a delicate condition and alleges Paul Moore is responsible therefor. He was apprehended, together with the others, and they confessed their guilt. Moore was sentenced by the court of Indian offenses and was assigned to the potato farm and set to digging potatoes. He escaped and was later returned, when a ball and chain were placed on him. He again escaped and has not yet been returned.

Commissioner Burke admits the ball-and-chain punishment. No judge or jury would accept the other statements unsupported by proof. No one will condone the offense, if true, although Commissioner Burke assumes that anyone objecting to Spanish inquisition punishment does so because of sympathy for the offender. Any attorney would inquire, Is it true that Moore and his associates were with the women; if so, what evidence is to be had that Moore was responsible for subsequent conditions, and what proof was had and what was the influence used, if so, to secure any plea of guilty which is alleged—but nothing furnished to confirm that statement. This is not to excuse in any degree any offense, if an offense was committed, but to get some facts in a case where letters to Senator LA FOLLETTE state that Moore was brought before Superintendent Hammitt of the agency; that an Indian named Sawgetchwayghezis, posing as a judge, was present, who could not read or write or talk English. He certainly would be forgiven for misspelling his own name. That Hammitt prepared and read Moore's sentence to six months' imprisonment in the agency jail. All this appears in the letter found in RECORD of March 4.

COMMISSIONER BURKE APPROVES BALL AND CHAIN USED BY AGENTS

Assuming that all the facts were as claimed by Commissioner Burke, I submit his own statement (p. 27 of the hearings):

I say I have no sympathy for Paul Moore, and I think he ought to be in chains for not the time of the sentence of the Indian court but for a much longer period.

Commissioner Burke approves the ball-and-chain treatment, which is undenied; but he would have it continued for a much longer period than six months. No one knows just what his judgment would determine for ball-and-chain treatment, but that is his standard set for Indian agents throughout the country. The commissioner approves ball-and-chain penalties and unlimited sentences by his agents who write the findings of the $10-a-month courts.

A Rev. Mr. Murray at the agency, who presumably may be under many obligations to the local agent, also is quoted by Commissioner Burke in support of his agent. Murray writes (p. 27, hearings):

I know Mr. Hammitt to be a clean, pure-minded, and fair-minded executive, always kind and polite to all, including lawbreakers who come before him from time to time.

Not before the Indian judge, you will note, but before Hammitt. I make no comment on this whitewash letter whether written from a pail of hypocrisy or ignorance that attempts to justify the ball-and-chain czar of the Lac du Flambeau (Wis.) Agency.

The following affidavits from those who acquainted themselves with the facts are sufficient to give a fair understanding of Hammitt and his "kind and polite" methods. They were sent me without suggestion on my part as to any particular matters to be covered. Only a brief statement of facts was asked. These facts sworn to by witnesses are as follows:

THE LAC DU FLAMBEAU BALL-AND-CHAIN CASE

STATE OF WISCONSIN,
*County of Ashland:*

Cecelia S. Rabideaux, being first duly sworn, on oath deposes and says: I am now 24 years of age and reside in the village of Odanah, within the Bad River Reservation, in Ashland County, Wis. On the 21st day of January, 1926, I was informed that my brother, Paul Moore, had been seized by the Indian police of said village, and, together with Maggie Crowe, who I asked to go with me, called on said police at the office of the Government farmer in said village and there asked to be advised as to what the warrant read for the arrest of Paul Moore. One Bawdee Marksman, who at times acts as a police, said, "It is not necessary that we have a warrant." I then asked, "How is that?" Bawdee Marksman then in substance further stated: "The Indian agent at Lac du Flambeau wrote to the Indian agent at Ashland, Mr. P. S. Everest, and that he in turn wrote to the Government farmer, Mr. A. L. Doan, who directed us to take Paul Moore the first time we saw him."

Paul Moore was put in jail at Odanah and there kept until the next morning, January 22, when he was taken to Lac du Flambeau, so then formed, by one Albert Snow, an Indian police for the Lac du Flambeau Reservation Agency. I asked Maggie Crowe to accompany me to Lac du Flambeau. We boarded the train therefor Tuesday morning, January 26, 1926, arriving at the said agency at 12 o'clock noon. We entered the agency office, and I introduced myself to the superintendent, Mr. Hammitt, with saying that I was Paul Moore's sister from Odanah, and was there to see Paul, and also asked as to what he intended to do with him. He stated that he intended to keep him there, and that we would find him in the jail or in the dining room of the school, as he did not know where they would feed him. We then went out to the jail and there found Paul Moore in one of the cells therein, the size of which was about 6 by 8 feet. The same contained two bunks, and also in one corner thereof was a clogged toilet, from which came a stench that filled the room. Fastened to Paul Moore's ankle was a ball and chain.

In the same room, but outside of cells, were three men and a woman, all Indians, whose names we there learned were William Roy, Harry King, Charles Boneosh, and Mrs. Boneosh, who were all served with lunch soon after we were there by children of the school. I was informed by Mrs. Boneosh that, by reason of an arrest previous to the one for which they were then there, she and her husband were sentenced by Superintendent Hammitt to pay a fine of $75 each; that that was all the money they had, and her husband handed it to said superintendent for her release, and he served time, along with several other prisoners, in work of repair about the said agency.

CECELIA S. RABIDEAUX.

Subscribed and sworn to before me this 30th day of March, A. D. 1926.

O. A. PEARSON,
*Notary Public, Ashland County, Wis.*

(My commission expires September 2, 1928.)

Mrs. Rabideaux I am informed is chairman of the local League of Women Voters of my State.

ANOTHER AFFIDAVIT ON THE WISCONSIN BALL-AND-CHAIN AGENCY

STATE OF WISCONSIN,
*County of Ashland, ss:*

Maggie Crowe, being first duly sworn, on oath deposes and says I am of part Chippewa Indian blood, now 29 years of age, and reside in the village of Odanah, Wis.

I was on the 21st day of January, 1926, with Mrs. Cecelia S. Rabideaux when she called on the police of said village at the Government farmer's office in Odanah, and heard her ask to be informed as to what the warrant read for the arrest of Paul Moore. The police said that

they had no warrant, that the Indian agent of Lac du Flambeau had written to the Indian agent at Ashland, Mr. P. S. Everest, and that he in turn had written to Mr. A. L. Doan, the farmer, who directed them, the police, to take Paul Moore as soon as they saw him.

Paul Moore was locked up on this 21st day of January in jail at Odanah, and on the following morning taken to the depot handcuffed and put onto the southbound 6.50 a. m. Northwestern train in charge of one Albert Snow, an Indian police from the Lac du Flambeau Indian Reservation.

I accompanied Mrs. Cecelia S. Rabideaux January 26, 1926, to the Lac du Flambeau Indian Agency on a visit to her brother, Paul Moore, who we found in a cell within the agency jail. The air therein was very offensive, and on Mrs. Rabideaux's inquiry as to what smelled so, Paul Moore remarked that it was the toilet in the corner of the cell he was in, and showed us that it would not flush. This cell was about 6 by 8 feet and had two bunks therein, and to Mr. Moore's ankle was fastened a ball and chain. Outside of the cells in the same room was four other Indian prisoners, whose names we learned were William Roy, Harry King, Charles Boneosh, and Mrs. Boneosh. The woman told us that she and her husband had been, before this sentence for which they were now there, each fined $75, that being all the money they had. Her husband handed it to the said Lac du Flambeau Indian agent for her release, and he served time in labor about the agency premises along with others, for which he got no pay.

MAGGIE CROWE.

Subscribed and sworn to before me this 15th day of March, A. D. 1926.

O. A. PEARSON,
*Notary Public, Ashland County, Wis.*

(My commission expires September 2, 1928.)

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CONFISCATES CLOTHES AND LEAVES BALL-AND-CHAIN ORNAMENTS

STATE OF WISCONSIN,
*County of Ashland, ss:*

Mrs. Mary Moore, being first duly sworn, on oath deposes and says: I am a mixed-blood Chippewa Indian, now 46 years of age, residing in the village of Odanah, Wis., and the mother of 11 living children, 1 of them being Paul Moore, now 26 years of age.

On the 21st day of January, 1926, my son, Paul Moore, was arrested without warrant by the Indian police of this village and held in jail in said village until the following morning, when he was delivered by them, handcuffed, at the depot of the Northwestern Railway to one Albert Snow, who, I was there told, was an Indian police of the Lac du Flambeau Indian Reservation, and who took with him aboard the southbound 6.50 train Paul Moore.

I was informed by Paul Moore that he was first detained by the superintendent of the Lac du Flambeau Indian School and Agency in a jail at such agency for five days after the 27th day of October last, and at which time he was made to take off his clothes, the same of which the superintendent of said agency took in charge, and furnished old clothes for him to put on.

I am now indirectly advised that since the 22d day of January, 1926, the superintendent of the Lac du Flambeau School and Agency has sold Paul Moore's clothes, the same of which was an overcoat purchased in said October last at a cost of $45 and a suit bought about a month before at a cost of $35, together worth $80.

MARY MOORE.

Subscribed and sworn to before me this 15th day of March, A. D. 1926.

O. A. PEARSON,
*Notary Public, Ashland County, Wis.*

(My commission expires September 2, 1928.)

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THE INDIAN AGENT SELLS MOORE'S CLOTHES, WITH A BALL AND CHAIN FOR SECURITY

STATE OF WISCONSIN,
*County of Ashland, ss:*

Charles La Casse, being first duly sworn, on oath deposes and says: I am now 20 years of age, and a member of the Lac du Flambeau Band of Chippewa Indians, on the Lac du Flambeau Reservation, in Vilas County of said State, where I have resided about all my life, except for the time of my attendance at the Tomah School, in this State, and at the Mount Pleasant School, in the State of Michigan, until the evening of January 22, 1926.

With the view of asking the superintendent in charge of the Lac du Flambeau Indian Agency, Mr. J. S. Hammitt, for an allowance out of my trust fund, though having been at a former request denied, I was at the said agency office to again make such a request through the so-called chief of police, a Mr. William Mattigosh, on the 22d day of January, 1926. While there, and before Mr. Mattigosh could speak for me, he was given charge of one Paul Moore, who he conducted to the jail of said agency. I followed him there and into the jail and saw Mr. Mattigosh place said Paul Moore in one of the cells therein and also saw him fasten a ball and chain to Paul Moore's ankle. Mr. Mattigosh then closed the door of the cell in which was the said Paul Moore and locked it, as he did also the outer door of said jail after we had come out.

We then went into the agency office. I there heard the superintendent of the said agency say to the clerk thereof, a Mr. W. H. Shawnee, that they would sell Paul Moore's clothes. I was soon thereafter given a check on a bank of Wisconsin Rapids, Wis., for $15, and then asked by said superintendent to buy Paul Moore's clothes. This I declined to do; but I understand that they were sold to Mr. Mattigosh, who offered $12 for them, an overcoat and a full suit, which I think from my examination of them must be worth at least $40.

CHARLES LA CASSE.

Subscribed and sworn to before me this 15th day of March, A. D. 1926.

O. A. PEARSON,
*Notary Public, Ashland County, Wis.*

(My commission expires September 2, 1928.)

Four affidavits from responsible Indian witnesses have been submitted.

Mr. Burke, on his own statement, approved such conditions and such treatment of Indians. I do not know whether Hammitt took Moore's clothing in a moment's aberration when the religious influence of Reverend Murray was quiescent or how much he got for Moore's clothes, but the significant fact is noted that when the trail got hot and Hammitt became uncertain of results, Moore was allowed to escape from his cage minus his clothes, but carrying his ball-and-chain ornaments away as a souvenir of the place and of his "kind and polite" jailer.

This is a case from my own State. I do not know whether Moore committed any offense, neither does Mr. Burke. Without attorney, jury, or right to any bail or appeal, he was kidnaped without papers and brought back 70 miles, where a ball and chain was placed on him while locked up in a foul-smelling cell. Then he "escaped," ball and chain and all excepting $75 in good clothes kept by Hammitt. These facts seem undisputed; yet the most serious part of the whole outrageous travesty on justice is that Commissioner Burke approves such ball-and-chain treatment by his agents.

I have submitted undisputable evidence that one Indian youth in Wisconsin was hauled before a $10 Indian judge on the Lac du Flambeau Reservation. Without legal hearing or trial by jury or otherwise, without any attorney so far as appears, without bail or any offer of appeal, this Indian boy, Moore, was thrown into an ill-smelling, insanitary cell, and only when the governor of the State wired the President of the ball-and-chain treatment was Moore allowed to "escape."

Hammitt, the Indian agent, is still on the job, and this is emphasized by an insolent letter couched in terms of affected politeness which I received last week from him, and is as follows:

DEPARTMENT OF THE INTERIOR,
UNITED STATES INDIAN SERVICE,
LAC DU FLAMBEAU SCHOOL AND AGENCY,
*Lac du Flambeau, Wis., December 7, 1926.*

Mr. JAMES A. FREAR,
*House of Representatives, Washington, D. C.*

MY DEAR MR. FREAR: As you probably know, the funds allowed by the Government are not sufficient to enable me to purchase any extras or luxuries, and at this season of the year I would like to be in a position to make the little children at this school feel that the Santa Claus of the white child is as deeply interested in his red children as those of his more fortunate brothers and sisters. To this end I am asking whether you may be able to forward to this school some slight token of Christmas cheer which would assist me in making the Christmas time a little happier for the many small children I have enrolled here. With sincere wishes for a very happy Christmas, I am

Very truly yours,

JOHN S. R. HAMMITT, *Superintendent.*

To this I answered that if Hammitt has any explanation or excuse to offer for his high-handed outrage that made him liable to criminal action he could present the subject before an investigating committee, and that should be done.

WASHINGTON, D. C., *December 8, 1926.*

Mr. J. S. R. HAMMITT,
*Superintendent Lac du Flambeau School and Agency,*
*Lac du Flambeau, Wis.*

MY DEAR SIR: Your letter asking me to make some contribution to Christmas presents for Indian children on the Lac du Flambeau Reservation is received. As this is the only letter thus far received by me during 14 years' service in Congress from any of the 200 Indian reservation agents, and as none of the other Members of Congress, so far as I can learn, have been asked by you or other agents to make contributions to your agency or to other agencies, I naturally assume that any special interest on your part in writing me comes from the record in the Moore case.

If I remember correctly, that occurred on the Lac du Flambeau Reservation, and, through complaints from Governor Blaine, supported by four affidavits which were filed stating that Moore was confined with ball and chain in his cell on your reservation. This is the only case of the kind reported, to my knowledge, from Wisconsin or any other State this year.

If an investigation is had of Indian matters undoubtedly you would have the right to give your own version of the facts. With that, like other complaints, I have no personal concern, excepting to relieve Indians in a small way from unjust treatment whenever able to do so.

During the past year I spent a fairly large amount of my own personal funds in examining Indian reservations in Western States; and at some places where food, medicine, and other necessities for Indians are said to be required I am ready to contribute from personal funds as much as anyone in my position, and thereafter I would be willing, if able, to give to any of your wards as much as you have called for from other Members.

I trust my letter shows my deep interest in the Indian question and also in the little ones on your reservation, not limited, however, to Christmas giving but to the general welfare of all Indian tribes.

Very sincerely,

JAMES A. FREAR.

I submit that while this case of Hammitt and the Indian boy Moore may be an unusual proceeding the most significant part of the case is the fact that Hammitt is still on the job, a fair representation of the policy and standards of the Indian Bureau, if any conclusions can be drawn from that fact and also from Commissioner Burke's defense of his course, which I have submitted.

No more illegal or high-handed proceeding will be found in the records of any department of Government, I apprehend, and yet with these facts before us we are asked to continue this illegal and indefensible Indian-judge system.

Indians are now citizens and should be treated as such by the Government and not as felons to be worked on roads or chained in cells by the mandate of an arbitrary Indian agent through a judge whom he appoints at will and in this case could neither read nor write.

Why are not Indians entitled to be tried like white men with a jury of their peers and by a judge who at least can read and write and is not subject to the control of an Indian agent?

If so, it is time to discontinue these Indian-judge appropriations and to discontinue many other activities of the Indian Bureau of the same character.

The bill I have introduced to give Indians their day in court with regular court proceedings ought to be passed or some other measure of like character.

Mr. CRAMTON. Mr. Chairman, I hope the amendment will not prevail. First, I want to correct the impression of the gentleman from Wisconsin as to the purpose of this increase. For the current year there was an appropriation of $8,400 for paying 70 judges. That has been held to require that they shall pay every judge the same amount of money, which was $10 a month. The committee has felt, from our contact with the problem in the field, that these judges ought not to be paid the same sum. Take a Hopi village in Arizona, where there are a few hundred Indians gathered together, $10 a month is sufficient. The cases before the judge are few and unimportant, and he may at most have to walk across the village street; very little time is consumed.

Up in South Dakota I remember the Pine Ridge Reservation where there is a great area of territory involved—where the county organization can not take care of all the matters, because the Indian reservation prevents settlement—these three judges come down and meet together at one point, coming 50 to 75 miles, spending several days in court, and the laws of South Dakota are such that many important offenses are not handled in any other way except in the courts of the Indian reservation. We felt that it was unjust to those judges to receive only $10 a month. So the reason for the increase is not because of any criticism that has been made against having Indian judges nor because of any criticism outside of it, but because the committee felt that a judge in South Dakota spent days and days, traveling many miles, that he ought to have more pay than a judge in one of these Hopi villages.

We have not limited the number of judges, increased the amount to $15,000, with the expectation that the Indian Bureau will give the increase where it is justified.

Mr. FREAR. That leaves the bureau to determine the number of judges as it desires. I agree that the present system is wrong.

Mr. CRAMTON. I can give the gentleman assurance, because the office of the Indian Bureau cooperates very fully with Congress and endeavors to carry out the wishes of the Congress—and I can assure the gentleman that there is likely to be fewer judges and more equitable pay.

The CHAIRMAN (Mr. DOWELL). The question is on the amendment offered by the gentleman from Wisconsin.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

That not to exceed $150,000 of applicable appropriations made herein for the Bureau of Indian Affairs shall be available for the maintenance, repair, and operation of motor-propelled and horse-drawn passenger-carrying vehicles for the use of superintendents, farmers, physicians, field matrons, allotting, irrigation, and other employees in the Indian field service: *Provided*, That not to exceed $3,000 may be used in the purchase of horse-drawn passenger-carrying vehicles, and not to exceed $35,000 for the purchase of motor-propelled passenger-carrying vehicles, and that such vehicles shall be used only for official service.

Mr. FREAR. Mr. Chairman, I move to strike out the last word. I do not desire to go into details on many of these propositions, but this motion is for the purpose of getting information from the chairman. I understand that $100,000 or a little more were taken from the Indian tribal fund for this same purpose. That is right, is it not?

Mr. CRAMTON. I do not recall the exact amount.

Mr. FREAR. The question in my mind is this: What authority does the Indian Bureau have to take from the tribal fund $100,000 or $50,000 or any other amount? Is it under any specific statute, or what is the limitation and how is the money to be expended when it is taken from the tribal fund?

Mr. CRAMTON. The gentleman does not question the authority of the bureau to use the tribal fund for the expense of administration? There would be the same right to use the money to purchase an automobile that there would be to use the money for putting up an agency building.

Mr. FREAR. The question arises, Is there any limitation to the amount that could be expended for automobiles, for instance, and would it be necessary to furnish automobiles for that particular reservation, or could they be used for any reservation?

Mr. CRAMTON. Generally speaking, they have no right to use tribal funds except as authorized by Congress. We authorize the appropriation. There are a few exceptions and a few specific purposes which I have not in mind just now.

Mr. FREAR. They took in this case $100,000 from the tribal funds.

Mr. CRAMTON. The statute provides that no money shall be expended from Indian tribal funds without appropriation by Congress, except to equalize allotments for the education of the children in accordance with existing law, all of which are continued in full force and effect, provided it shall not change existing law as to the Five Civilized Tribes. Otherwise the money can not be used from tribal funds except through appropriations by Congress.

Mr. FREAR. On page 51 of the hearings the table there states from tribal funds for motor cars, in addition to what comes from appropriations, $100,370. The gentleman will notice that in the last statement tabulated.

Mr. CRAMTON. But there must be an authorization somewhere. I have not that just in mind.

Mr. FREAR. The question I had in mind is to ascertain what authority or limitation of authority there is upon the bureau in cases of that kind, and from where the expenditures may be made.

Mr. CRAMTON. The particular point the gentleman asks about is on page 51 of the hearings, of $100,000 for purchase of vehicles and their repairs and operation. I have not in mind now any express authorization or limitation, but it must come in this way. That hundred thousand dollars can only be expenditures under authorized appropriations. For instance, if there is an authorization of $100,000 for the cost of administration of a certain tribe, a portion of that $100,000 might be available for the purchase of automobiles and their operation.

Mr. FREAR. Under an item of this kind.

Mr. CRAMTON. I think this $100,000 must be made up in this way, but if it is satisfactory to the gentleman I shall check that up and make an addition to my remarks and give the gentleman the information he asks.

Mr. FREAR. It is not because of objection to the particular automobile item, but I want to know what is the general law and power of the bureau under reimbursable funds.

Mr. CRAMTON. I have asked them to make a definite statement as to what expenditures were made from tribal funds without authorization of Congress, but I have not carried the exceptions in my mind. I am satisfied this item is drawn from an authorized appropriation of tribal funds, but I shall put in a formal statement.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn and the Clerk will read.

The Clerk read as follows:

That to meet possible emergencies, not exceeding $100,000 of the appropriations made by this act for support of reservation and nonreservation schools, for school and agency buildings, and for preservation of health among Indians, shall be available, upon approval of the Secretary of the Interior, for replacing any buildings, equipment, supplies, livestock, or other property of those activities of the Indian Service above referred to which may be destroyed or rendered unserviceable by fire, flood, or storm: *Provided*, That the limit of $7,500 for new construction contained in the appropriation for Indian school buildings shall not apply to such emergency expenditures: *And provided further*, That any diversions of appropriations made hereunder shall be reported to Congress in the annual Budget.

Mr. FREAR. Mr. Chairman, I move to strike out the last word to make another inquiry. That is a new provision, is it not? I have a note here that it is new in the bill.

Mr. CRAMTON. No; it was new a year ago. This is the second time it has been in the bill.

Mr. FREAR. Have there been any expenditures under that item?

Mr. CRAMTON. There was one expenditure made under it this year.

Mr. FREAR. That is about $5,000?

Mr. CRAMTON. Five thousand dollars for a building somewhere.

Mr. FREAR. Is it cumulative, so that this money will continue to accumulate?

Mr. CRAMTON. It is not. Nothing accumulates. This is not an appropriation; it is an authority to transfer not more than $100,000 in the course of a year. Of course, at the end of the year, that ends that. The committee believe it is a desirable provision. For instance, on a reservation or at an Indian school a building may burn. Say, a dairy barn burns. Instead of waiting six months for Congress to make an appropriation for a new dairy barn, if the department feels it is urgent enough, it can transfer the five or six thousand dollars from some other appropriation, and, of course, have that much less to spend for other purposes, and repair the barn.

Mr. FREAR. There is no question about the purpose of it. It was only a question of whether it is cumulative.

Mr. CRAMTON. It is not cumulative.

The Clerk read as follows:

EXPENSES OF INDIAN COMMISSIONERS

For expenses of the Board of Indian Commissioners, $11,000, of which amount not to exceed $7,800 may be expended for personal services in the District of Columbia.

Mr. FREAR. Mr. Chairman, I move to strike out the last word. That amount of $11,000, which I understand is an increase of $1,000 over last year, page 57 of the hearings, provides for $7,800, or not to exceed that, in the District of Columbia, which leaves $3,200 only for this investigation. In other words, more than double the amount authorized for investigation purposes is used for salaries. What is this commission doing? I am not criticizing it at all, but ask whether that is a fair distribution of the $11,000.

Mr. CRAMTON. The gentleman understands that the Board of Indian Commissioners is a board of civilians. It is a board of high standing throughout the country, who serve without compensation, who give more or less limited time to investigations in the field. The members of the board are men and women of standing. They go wherever they desire in the field—to reservations, schools, or hospitals. They are entirely free of any supervision of the Indian Bureau. One commissioner goes this year to one reservation and another to another. They make their reports and render a report, which is in my hands. During the year they have made a number of investigations and visits. They present their recommendations as to changes needed, and each year when our committee holds hearings we ask the secretary of that board to sit in while the Indian bill is before us and present such suggestions as he may desire, and in the hearings will be found a statement from him and such recommendations. The expenditure, it is true, is mainly for the salary roll. There is $4,000 for the secretary, Mr. McDowell; $2,100 for one clerk, and $1,560 for another. The total salary roll is $7,660. Then there is an item of $100 for sundry supplies and $75 for communication service and $3,165 for traveling expenses. That impresses me as being sufficient for the board's traveling expenses, going the way they do.

Mr. FREAR. That is the point I had in mind—whether that was sufficient for them, with 200 reservations. If they do much traveling around, it occurred to me $3,200 was a limited amount.

Mr. CRAMTON. It is not feasible for them to spend all of their time or any great proportion, the whole board not going, but just one to this reservation and another to that. Their expenses are not large, and I suppose when they are on the reservations there is no charge to the Government. They are taken care of by the regular transportation facilities. There has been no complaint from the board with reference to that.

Mr. FREAR. Mr. Chairman, on March 4, 1926, I submitted to the House a resolution for an investigation of the management of the Indian Bureau by a congressional committee, and gave detailed testimony to support definite and serious charges of maladministration made against the bureau management. I believe all charges so made were true, and, if so, a thorough investigation of the Indian Bureau should be had. Many of the charges were based upon information received from Indians, from a study of the laws now governing the Indians of the country, from statements of other Members, and in the case of palpable frauds like the $100,000 Navajo Indian charge for a Lees Ferry bridge from Senators personally familiar with the facts. In other cases information was furnished by officials of the Indian Defense Association and other organizations. In several speeches I set forth affidavits and evidence then available to support the charges.

All witnesses and complainants stated to me substantially the facts as then given to the House.

On April 10 following Indian Commissioner Burke in a three-hour speech before the Indian Affairs Committee of the House gave what purported to be a defense of the Indian Bureau. His speech was a curious admission by confession and avoidance of my charges of maladministration.

On April 23, in the House, I answered specifically the speech made by Commissioner Burke the previous week and therein restated and repeated every charge of neglect and oppression made against the Indian Bureau in resolution of March 4, 1926, which asked for an investigation of the bureau.

I therein charged—

First. That the Indian Bureau, without possible excuse, recommended the confiscation of $100,000 of Navajo Indian funds.

Second. The Indian Bureau has recommended and secured from Congress other Indian reimbursement charges against the Navajos, Pueblos, and other Indian tribes as reprehensible and indefensible as the $100,000 Navajo item.

Third. The Indian Bureau approved and helped manage a scandalous settlement of over $1,000,000 of the property of Jackson Barnett, a half-witted Indian, the terms of which were as reprehensible of an allotted Indian's property as charges made against tribal property.

Fourth. The Indian Bureau has practically exclusive control of $90,000,000 of money and securities and $1,650,000,000 of Indian property held in trust for what it terms 225,000 "incompetent" Indians. No right of court review or appeal from the bureau's arbitrary decision is given to a single Indian.

Fifth. A telegram by Governor Blaine, of Wisconsin, to President Coolidge was unqualifiedly true wherein he complained that a Wisconsin Indian charged with a misdemeanor was fastened with ball and chain in a foul, insanitary cell 6 by 9 feet in size. Evidence of this fact is practically undisputed.

Sixth. I charged that a ball and chain were used for punishing an Indian on the Fort Peck Reservation, charged with a misdemeanor.

Seventh. Evidence that Commissioner Burke and Mr. Meritt by threats and intimidation endeavored to smother the facts last cited, and startling affidavits of the Indian Bureau's intimidation of Indian witnesses in Washington were also submitted.

Eighth. The Indian Bureau has possession of an amazing report by the American Red Cross on Indian Bureau neglect and inefficiency affecting the health of Indian tribes, which has been smothered, and Senators and Members who have asked to inspect the report have been refused that right.

Ninth. The Indian Bureau has failed and neglected the health and care of Indians in Wisconsin, California, Arizona, and other States, as set forth in statements of reputable medical witnesses and commissions, none of which were disputed in Commissioner Burke's three-hour speech, excepting a reference by him to the Pima Tribe, that was incorrect.

Tenth. The Indian Bureau has caused to be introduced bill H. R. 7826, that as prepared provides all Indians on reservations may be tried by $10 a month "judges" and sentenced to six months in jail in addition to a $100 fine for disobeying rules or regulations of the bureau. No right to a jury trial, attorney, bail, or appeal guaranteed under the Constitution is afforded by that bill, which was opposed by every Indian

tribe represented in Washington, excepting one white attorney for some Indians in South Dakota, the home State of Mr. Burke.

Eleventh. The Indian Bureau approved a grossly unjust Indian oil leasing bill, affecting 22,000,000 acres of Indian reservations, and while oil men and bureau officials urged its passage before House and Senate committees, not one Indian representative of any tribe was called or heard on the bill.

Twelfth. The Indian Bureau under existing law and custom has practically unlimited control of the person and property of 225,000 Indians, excepting in case of eight felonies, without right to jury, court appeal, or judicial review in determining matters of "competency" or rights guaranteed every other American citizen.

Thirteenth. Complaints against the Indian Bureau lodged by Menominee Indians of Wisconsin, Blackfeet and Flathead Indians of Montana, and Pueblo Indians of New Mexico, and other tribes, were not answered or referred to by Commissioner Burke in his three hours of uninterrupted speech.

Again I ask that my resolution of investigation of the Indian Bureau by Congress be passed and all facts disclosed in order that remedial legislation may be had and the Indians of America given a self-supporting, self-respecting, and constructive program to fit them for duties of citizenship, which citizenship Congress has conferred on them by law.

THE INDIAN BUREAU'S IRON-HAND CONTROL

In speech of April 23 I further stated that under the Indian Bureau's iron-handed control the American Indian is absolutely unable to help himself and will remain perpetually under harsh bureau control, even as he has for over 70 years, with worse conditions confronting him than ever before. I set forth this control specifically as follows: The present commissioner has $90,000,000 in money and securities and $1,650,000,000 of Indian property, according to his own report, which he administers.

Indian tribal lands can not be leased or sold by him without the tribe's or congressional consent, nor can tribal funds be expended save by the consent of Congress. But when Navajo bridge items and irrigation, highway, and other laws unknown to the Indians are recommended by the bureau and passed by Congress this consent is of little value to the Indian. A protest is all he could make in any event. Indians who have been given their citizenship, and that includes all Indians since 1924, are still kept in leading strings. The 225,000 "restricted" Indians, including those holding allotments, have no rights of property excepting in name.

Let us see what the facts disclose: The allotted lands can all be leased by the Indian Bureau without the consent of their Indian owners. These lands can be secretly leased, they can be leased without competition and sometimes without consideration, save the supposed improvement resulting from the white man's use of the land.

The land of a dead Indian allottee can be sold by the Indian Bureau without the consent of the heirs. That is the custom.

The will of an allotted Indian has no validity until approved by the Indian Bureau, and the bureau can destroy the will without court review.

The Indian Bureau determines the heirs of an allottee, and there is no court review.

The allotted Indian can not hypothecate his property, which is held or controlled by the Indian Bureau.

The allotted Indian's contracts or leases are void until approved by the Indian Bureau in so far as they involve trust property.

The allotted Indian's funds are in the hands of the Indian Bureau, and can be disposed of by the bureau without interference by the Indian or reference to Congress, except where special laws direct cash payments to be made.

The allotted Indian can have no accounting from the Indian Bureau, his official guardian.

The Indian tribe can not hire lawyers to represent its interests without the approval of the Indian Bureau.

The allotted Indian can not be declared competent or able to care for his own property or secure possession therefor without the approval of the Indian Bureau.

I believe I have fairly stated the Indian's rights, or rather lack of rights, that go with his new American citizenship.

The fact that no court review or oversight is permitted in any of the above cases, save in a partial way in Oklahoma, and that the Indian and his property are under exclusive bureau control, even to the determination of "competency," is a monstrous proposal not found elsewhere in the world.

During last summer I traveled over many reservations on a journey by automobile of about 4,500 miles and covered about 20 Indian reservations in the States of Montana, Idaho, Utah, New Mexico, Arizona, and California. I saw conditions of maladministration that can not be successfully defended before any congressional committee or before any other intelligent audience. These I will discuss later.

The three-hour uninterrupted defense of Commissioner Burke last April before the Indian Committee was of especial interest because his lengthy discourse of confession and avoidance furnished confirmation of my charges hereinbefore set forth. However much I have differed from Mr. Burke as to the facts when criticizing his administration of Indian Affairs, I have given him credit for some attempt at honest statement, however much we differ in our views on Indian welfare.

MR. MERITT AND MR. BURKE

Mr. Meritt, his assistant, has been in the Indian Office for a number of years, serving under both Commissioner Sells and Commissioner Burke. Meritt claims Mr. Burke is the best chief he has served under, which is a proper tribute to every new superior. Mr. Meritt is generally regarded by Senators and Members not satisfied with Indian Bureau administration to be the real power in the bureau and to be responsible for conditions that have invited much criticism, although done in the names of Mr. Burke or Secretary Work, who approved matters formally placed before them.

Such Senators and Members dissatisfied with Indian affairs quite generally agree that the name of the assistant chief should be written Demerit and not Meritt and they point to many cases, each within his own observation, that leads them to that opinion.

Mr. Meritt recently traveled 6,000 miles to California and back to appear before several audiences in the West for the avowed purpose of defending the Indian Bureau. The unique "defense" he read from manuscript was largely a dispute of some of my alleged criticisms of the bureau. No notices of his defense so made would deserve the attention of the House excepting to the extent that it gives further insight into the conduct of the Indian Bureau. Prior to reading his prepared address Mr. Meritt was handed a list of questions by the Oakland Forum to which he was asked to speak. These he did not answer. I have attached them to my remarks and they are an indictment of the Indian Bureau that should be answered before a congressional committee, where answers can be entered.

A brief examination of Meritt's bureau defense which occupied over an hour in its reading disclosed that his paper prepared in Washington apparently in collaboration with Commissioner Burke, is not responsive to any of the direct charges of bureau maladministration hereinbefore set forth. Nor does it attempt to answer any of the 100 questions presented to Mr. Meritt by the California people. The bureau's second defense now read by Meritt is a curious attempt to select sentences from isolated remarks I am alleged to have made without specifying where or when such remarks were made. It does not approach the dignity of a smoke screen but is important because it shows the character and purposes of men who now control the Indian Bureau. Evasion and misstatement disclose that such agencies are unsafe and untrustworthy in any governmental capacity. To leave Indians to their tender mercies is to abandon all responsibility which Congress and the country owes to these wards of the Government.

The most inane example of artful dodging ever sprung on innocent though not unsophisticated audiences was disclosed when Mr. Burke's representative, Mr. Meritt, discussed Indian welfare before the gatherings in California. No reply was offered by him to definite charges directed against the Indian Bureau and specifically made on the floors of Congress. Childish evasive generalities were alone offered. One hundred questions touching conditions of Indians in California and elsewhere were signed and presented to Mr. Meritt by leading citizens of that State, practically all of which were ignored in his discussion of purported remarks I was alleged by him to have made at some time and some unknown place, and which, on questioning, he admitted were gleaned from newspapers or some other source—but none taken from the express specific charges made by me before the House. The Oakland Forum questions, still unanswered, are attached to these remarks.

The stenographic record of Mr. Meritt's speech recently received, covering 124 pages of typewriting, I believe will give a better insight into Indian Bureau methods and misleading propaganda than any charges, however well confirmed from outside sources. That record, together with the alleged defense of the bureau by Mr. Burke, and the failure of both men to answer charges of malfeasance, makes up a record worthy of the study of any congressional investigating committee, though it might escape a whitewashing "research" if conducted by a group of Mr. Burke's or Mr. Work's friends.

MR. MERITT AROUSED INTEREST IN THE WEST

The highest testimonial accorded Mr. Meritt's carefully prepared readings came in the form of increased activities by the California Indian Defense Association, comprehensively, and resentfully, as disclosed by the line of questioning from Meritt's auditors. Following his reading and questioning in Los Angeles the immediate effect, I am informed, was evidenced by the organization in Pasadena of an enthusiastic and vigorous branch of the Indian Defense Association with the daughter of former Indian Commissioner Leupp for its secretary. During Commissioner Leupp's administration steps toward emancipating the Indians and improving their status and condition were taken and promised well for these wards of the Nation. Under the present "hard-boiled" administration as it is generally termed, the Indian's future is hopeless, while apart from bulletins of paper prospects, the present Burke-Meritt bureaucratic control has been worse than ever before.

No more positive evidence of misconduct and maladministration by the Indian Bureau could be asked than disclosed by Meritt's bureau statement and answers to questions propounded by his audiences. I have no purpose of answering his personal criticisms but will briefly analyze his "defense," which in itself confirms the charges I have made by the palpable half truths it contains.

This I submit is a correct picture of Indian Bureau administration methods. I shall briefly discuss every point or quotation in their order as presented by Meritt. This is not because of any influence exerted by him on any audience but that in any investigation by a committee of Congress the charges, answer, and reply will make an Indian welfare issue to be determined by the committee.

Again I ask for an exhaustive investigation into the Indian problem by a congressional committee that will at the outset be made acquainted with the methods and views of both Mr. Burke and Mr. Meritt.

MR. MERITT READ FOR MR. BURKE

Meritt read his address in California at the direction of Burke (see p. 418, hearing, 69th Cong., 2d sess., Interior Department appropriation bill, 1928) and Mr. Burke doubtless reviewed Meritt's proposed remarks, which were generously furnished in advance to the press so that the Bureau of Indian Affairs, already indicted by the previous "defense" made before the committee, is responsible for the carefully prepared "defense" of the assistant. Both chief and assistant are in the same boat, and on their own statements both should be brought before a real investigation committee and not before the whitewash "research" committee urged by Commissioner Burke and named by Secretary Work, presumably at Mr. Burke's request. Mr. Burke's efforts to escape a real investigation by having another friendly approval expressed of his bureau gives a clear insight into bureau methods that always oppose the light.

Let me preface an analysis of Mr. Meritt's bureau defense, as well as I did my previous analysis of Mr. Burke's defense, by saying that in neither case have I sought help from any philanthropic Indian welfare organization, nor from any of their officers. Any lawyer with knowledge of the record, the law, and the facts could do the same equally well, perhaps better, but I submit that any lawyer or investigation agency looking for the truth will find it substantially as I have stated in my charges against the Indian Bureau. These charges, as heretofore set forth in several speeches, are due to no personal animosity toward Mr. Burke or anyone in his bureau, but because of the hopeless condition of the American Indians after 70 years of Indian Bureau misgovernment.

THE BUREAU'S ARMY OF POLITICAL EMPLOYEES

On page 7, Mr. Meritt's defense before the Oakland Forum he says I charged the Indian Bureau with having an army of political employees. He answered, "Mr. FREAR'S army of political employees dwindles down to 2 out of nearly 5,000 when the facts are known." The two political employees he names are Messrs. Burke and Meritt. All of the 4,958 remaining employees of his bureau he says are nonpolitical. That is a play on words. If any of the 4,958 employees are not loyal, openly or ostensibly, to Burke and Meritt, then out they go, if they can be gotten rid of, and from statements made to me personally by employees on reservations who disagree with bureau methods, that is the result. Frequently they are transferred at their own expense, with their families, to distant reservations, and as one voluntarily said to me, if they have trouble with the bureau they lose their retirement privileges. To say that these employees are not bound by the closest ties of self-preservation to Burke and Meritt is to deny a self-evident fact, although when assured of no betrayal of their names or views, many who could not safely be called as witnesses gave to me valuable information not to be had from either Mr. Burke or Mr. Meritt. I repeat, my statement was strictly true that "Indian Bureau control is effected by an army of political employees, good, indifferent, and sometimes bad." In fact, that is a generous estimate of Mr. Burke's bureaucracy army, and that is the bureau's first answer to the specific charges of ill-treatment of Indians I have made before the House.

Mr. Meritt next quotes disapprovingly my alleged statement that "The heavy death loss has been neglected, so that to-day the Indians are only skeleton tribes." He does not say when or where this two-line statement was made by me nor give any data nor page of quotations. From the Commonwealth Club, June 8, 1926, publication, a club representing 4,000 leading members of California, I find an answer to his question, which is only one of many on that subject.

The Club says:

> These 18,000 Indians are the sole survivors of about 200,000 who lived in California * * * in 1849.

INDIAN BUREAU REPORTS CONFIDENTIAL

I have not charged Mr. Meritt or Mr. Burke with the deaths of all the 182,000 California Indians who died since 1849 over and above the birth rate. I have stated self-evident facts relating to present manhandling of Indians and am prepared to give specific cases in and out of California where the Indian Bureau of to-day is responsible for needless Indian deaths. That will be for an investigating committee to examine and verify, but in explaining to his audience why neither Mr. Burke nor himself would permit Senator JOHNSON, of California, Senator KING, of Utah, nor Congressman SWING, of California, to see a health report on file in the bureau prepared by Florence Patterson, former chief of the Red Cross Service in Rumania, and who made a startling report of Indian neglect, ill health, and deaths, Mr. Meritt says, page 79 of his speech:

> It is the policy of the department not to make public the reports of inspecting officials unless some one can show a direct interest and let the department know the reasons why they want the report. I think you can get cooperation from the Commissioner of Indian Affairs, and especially if you will call at the office I think you can see most anything we have there.

Senators and Members may see most anything that Mr. Burke and Mr. Meritt believe will not reflect on the bureau. Page Senators JOHNSON, KING, and Representative SWING. To this unique bureaucratic advice the chairman of the California meeting responded, "It is a rather long way to go to Washington." Particularly is this true when the facts were refused to two Senators and one Congressman on the ground. That is the bureau's second answer to the specific charges I have made of Indian neglect.

(3) Page 7, Mr. Meritt next quotes me as saying at some time and place unnamed:

> That the Indian agents appoint Indian judges at $10 per month to carry out the policy of oppression, and that the Indians are without jury, without attorney, without bail, and without right of appeal.

EMPLOYMENT BY INDIANS OF ATTORNEYS

He answers this specific charge by saying that any restricted Indian has the right to employ an attorney, but neglects to say no "incompetent" Indian can make a contract to be paid for by his property the bureau absolutely controls without the O. K. of the Indian officials, and practically every dollar belonging to the average 225,000 incompetent Indians' funds is under the control of the bureau. When arrested and jailed on a reservation, 50 miles or more from any attorney, the Indian is absolutely helpless. Mr. Meritt can not show, I predict, two cases within two years among the 200 tribes of Indians where an attorney was hired and paid for out of funds in the Indian Commissioner's hands for defense of an Indian who had been arrested by any Indian judge.

The charge is repeated that the Indian so arrested is practically defenseless.

Meritt next said that there is "an appeal" from the Indian judge appointed by the agent. The Indian when arrested and condemned by a $10 Indian judge appointed by the agent, Meritt says can appeal to the agent (?), next to Mr. Burke (?), next to the Secretary of the Interior (?). Not one such appeal has ever reached Secretary Work during his term of office, I assert. If so, he would presumably follow Mr. Meritt's recommendation, and Meritt would stand by the bureau's agent who appointed the "judge." That is the only "appeal" the Indian Bureau or existing law allows to 225,000 American citizens.

Again I say every Indian brought before a $10 reservation Indian judge, appointed by the agent, is without any attorney. He is not tried under any known legal practice; does not know the bureau's rule or law in many cases he is said to have violated; has no right to bail; and has no right of appeal to any

court. He remains in the jail sometimes with ball and chain punishment, helpless and under the absolute control of the bureau, and yet Congress has given to every American Indian full rights of citizenship granted under the Constitution.

Once when prosecuting a man for false representations his direct examination showed he had money in "a bank." When I asked on cross-examination what bank, he replied "sand bank." That is the character of Meritt's Indian "appeal" to Mr. Burke or Mr. Work. A sort of bank or bunk appeal never exercised by any Indian. The Indian Bureau is condemned out of Mr. Meritt's mouth by such evasive answers. The only protection for an Indian is found on page 94 of Meritt's novel bureau defense when he says—

If an Indian has been confined in a jail by an Indian court, I think he would have the right to have a writ of habeas corpus issued in the Federal court.

Meritt "thinks" that under the Constitution after an Indian is illegally locked up with ball and chain a Federal court can release him if he has money and can find an attorney to bring habeas corpus proceedings. That is the policy of all bureau control.

The frivolous character of the bureau's defense is well illustrated by these "points," made in the order they were read by him to his California audiences.

(4) Page 8, Meritt's bureau defense next quotes me as saying somewhere at some time unnamed—

From present prospects the bureau will not lose its job or its control of the person and property of the Indians for hundreds of years to come, if the Indians live that long.

HOW LONG WILL INDIAN BUREAU CONTROL

Meritt answers that by saying the bureau has relinquished approximately one-third of the Indians of the United States during the last 20 years; and then follows his equally "sand bank" statement as to how an Indian can have his "competency" tested. Prior to Mr. Meritt's connection with the bureau it may be that some effort to do justice in such matters was shown in Indian affairs, but during the past few years the number of so-called "incompetent" Indians kept under Mr. Meritt's bureau control, absolute and ironclad, has increased.

I quote Commissioner Sells, September 23, 1919, Snyder investigation committee hearings, page 40:

There are now under the administration of the Indian Bureau practically 220,000 Indians. There have been within the several years 9,000 * * * declared competent.

In the 1927 appropriation hearings held on the Indian bill before the House committee, page 96, Commissioner Burke testified "there are approximately 225,000 restricted Indians."

If Sells in 1919 was right in his estimate that 220,000 incompetent Indians were then under control of the bureau, of which Meritt was then an assistant, and if Burke was right in 1925 in his estimate that he then controlled 225,000 Indians, it will be well to amend my estimate of hundreds of years of bureau control. That control will last through all eternity for the 225,000 and an increasing number of "incompetent" Indians. Yet these Indians have no control of the $1,600,000,000 in property held by the Indian Bureau. That is a question for any investigating committee to consider and to recommend a change in the Government's policy, for Burke and Meritt determine such alleged "incompetency" and no court review is permitted under existing law.

BUREAU STATISTICS OF "INCOMPETENTS" AND WEALTH

In like manner Meritt speaks of "per capita wealth" of the Indians. A comparative handful of Indians with oil leases are wealthy, and the total increase in Indian wealth, he says, in one year was 50 per cent (p. 52, commissioner's report, 1925), yet nine-tenths of the 225,000 restricted Indians are not among the handful of fortunate oil magnates. Many tribes, in fact, are far worse off than they were a few years ago, if the reimbursable items charged against them are to be collected.

No more absurd statement, I repeat, has ever been voiced than Mr. Meritt's glowing shadow-boxing picture of increased property per capita. Nine out of ten Indians, or probably 95 per cent, do not participate in any such increase, and all of the increase in wealth of Indian oil owners is held under the Indian Bureau's control by existing law. No review by any court is permitted.

Messrs. Burke, Meritt, et al. declare that any criticism of the ridiculous "incompetency" supervision is a proposal to release all Indians and turn them adrift. In six years the number of Indians under bureau control has increased from 220,000 to 225,000, whereas in several years previous to 1919 Sells testified the number had been decreased 9,000.

Any constructive plan for the purpose of making our Indian citizens self-supporting would not seek to extend control over more Indians, but would endeavor to relieve the Government rapidly from such control. Not to release all the 225,000 so-called incompetent immediately, but where the Indian measures up in intelligence and honesty with Messrs. Meritt or Burke, I say without reflection, for instance, they might safely be released. If so I predict the number of "competent" Indians will reach many thousands, all of whom should have the full protection of their person and property given to other citizens under the Constitution.

The Indians need court protection not only against $10 Indian judges, but they need court protection against bureaucrats who to-day alone pass upon an Indian's "competency" without any right to court review.

(5) Mr. Meritt, page 9 of his written address, next quotes me as saying:

The power to employ an attorney, like the power over person and property, must have the approval of the Indian Bureau, which, in effect, names the Indian's lawyer who is to protect the Indian against the bureau.

His answer in effect is a defense of this un-American, unconstitutional power and not a dispute as to the power. I let the statement stand without argument and ask what other American citizens are so controlled in their person or property or in choice of attorneys? No Indian can make any contract for an attorney, I repeat, to bind his property under bureau control without the approval of the bureau. The bureau thereby protects itself against any alleged objectionable attorney. That is bureaucracy gone mad.

(6) Mr. Meritt, on page 10 of his remarks, quotes me as saying somewhere at some unnamed place—

No Indian is called before the congressional committees by the bureau.

A BUREAU MISSTATEMENT PURPOSELY MADE

This alleged sentence standing by itself he answers by saying that quite a number of Indians have been brought to Washington in times past for the purpose of testifying before Indian committees. Then, with mock indignation, he says this is "misrepresentation." Of course, the quotation appearing by itself, without date or page of alleged speech, does not mean anything nor was such statement without qualification ever made. On the great Indian oil bill, Navajo bridge bill, and others the statement is true as it was made.

The following question and answer disclose how Meritt was called and stumbled when the above alleged quotation was challenged as not correct. Page 102 of his stenographic report reads:

Mr. COLLIER. Am I correct in quoting you in that Mr. FREAR said no Indians were called before the committees of Congress by the bureau?

Mr. MERITT. I got that from some speech made by Mr. FREAR, and that is the substance of his remark.

Mr. COLLIER. The Indian Commissioner took a position that Mr. FREAR deemed unwise. In that instance no Indian was called, none of the interested Indians, and no Indian was called before the committees of Congress.

Mr. MERITT. I assure you it was not my intention to misquote Mr. FREAR, but I read that statement somewhere in his address or else in the publication gotten out by the Commonwealth Club.

Mr. Meritt not only misquoted but knew he misquoted in reference to the Indians who came to Washington to appear before committees. I charged that on a matter involving many millions of dollars of oil leases no Indians were called to testify, but that the bureau's agent, Mr. Hagerman, was called in 2,000 miles and testified that the Indians would willingly pay 50 per cent tax on their royalties, which is declared untrue by all the Indians I have met. I also charged that no Indian was called on the Navajo $100,000 bridge item and other charges of like character that were saddled on the Indians without their knowledge and by the Indian Bureau. Again Mr. Meritt is disclosed to have dodged the real issue by putting up a silly alleged quotation that he did not know where or when made, and that, like most of his answers, led into a blind alley.

When the Indian oil leasing bill was before Congress no Indian was brought to Washington to testify on a measure affecting oil rights on 22,000,000 acres of Indian lands in many States and affecting many thousands of Indians. This bill the bureau approved while it contained a 37½ per cent tax charge against the Indians oil royalty and a 5 per cent royalty on a portion of the Navajo oil fields. I further stated in my speech of April 23 this year that—

The Indian Bureau brought a white witness over 2,000 miles to say to the Senate committee that members of an Indian tribe would consent to give 50 per cent of their oil royalties, if necessary, in lieu of taxes.

Meritt did not and will not deny either charge before a congressional investigating committee. Why did not the Indian

Bureau bring one Indian witness out of many thousands of intelligent Indians affected by the bill to tell the truth to Congress and why did it seek to give away enormously valuable Indian rights based on the unsupported testimony of Mr. Hagerman who is one of the most active and useful of the bureau's "army" of political employees? Why did Meritt not answer that specific charge to his California audiences?

(7) Mr. Meritt next quotes me as saying—

The Jackson Barnett case is another scandal unique and original. It was investigated by the House Indian Committee two or three years ago and the committee whitewashed Burke.

A CONSPICUOUS CASE OF ALLEGED INDIAN BUREAU CONSPIRACY

Meritt then devotes several pages to his explanation of the Barnett case. The court dismissed the suit brought to protect Barnett on the ground that Burke was Barnett's sole guardian and no court review is possible under existing law of Mr. Burke's maladministration.

Barnett is described by everyone as a simple-minded Indian, about 70 years of age. He was made drunk and kidnaped and married by a woman in Oklahoma. The record in court and before the Indian Bureau was sufficient to call for every protection that could be given this really "incompetent" Indian. Yet he was brought to Washington, and here Mr. Burke, of the Indian Bureau, approved a division of Barnett's property, reaching $1,100,000, wherein the new wife was given $550,000 and a Baptist mission was given $550,000, with a life interest to Barnett. The gift of his property and its approval by the bureau was challenged by many parties. I am not attempting again to cover the facts set forth on pages 5 and 6 of my speech of April 23, none of which were disputed, even to the statement from Attorney General Sargent in the New York Times, in which he was quoted as saying:

Anna Laura Lowe took Barnett from his home in Oklahoma in February, 1920, and then to Coffeyville, Kans., and went through a purported marriage ceremony with Barnett, notwithstanding his mental incompetence and almost total ignorance. Afterwards she engaged Harold McGuggan, a Coffeyville lawyer, to negotiate with the Secretary of the Interior to acquire from Barnett's estate the $1,100,000 in bonds.

From the Washington Star of Friday, November 19, 1926, I quote:

Walters (representing the Oklahoma guardian), replying to Rogers's avowal that the action was illegally brought because no fraud was alleged, declared that while the original bill of complaint did not specifically allege fraud it inferred that Charles H. Burke, Commissioner of Indian Affairs, had been a party to a conspiracy to commit fraud. * * * In a subsequent bill of complaint this inference was withdrawn and allegation against Albert B. Fall and M. L. Mott, counsel for the Creek Nation, also were deleted. * * * "I have endeavored most studiously," Rogers said, "to avoid charging any governmental official with fraud. In view of the evidence, I don't know whether in this case it was cupidity or stupidity, but if it was not fraud it was at least gross indiscretion."

COMMISSIONER BURKE'S CLOSE FRIEND MR. MOTT

An Associated Press account of the case then pending in the New York court is found in the Washington Post of November 17, wherein it states:

Plaintiff counsel related that at the same time Barnett made his gift to the mission society he gave a like amount of money to his wife. She was said to have deposited $200,000 of this to her own account in the Riggs National Bank, Washington, D. C., and to have paid $150,000 to Harold G. McGuggan, an attorney of Coffeyville, Kans., accused by the plaintiff to be a prime mover in a conspiracy to get money from Barnett. * * * It was said McGuggan turned $50,000 of the money he received from Mrs. Barnett over to M. L. Mott, described as a "close friend of Commissioner of Indian Affairs Charles H. Burke." * * * Barnett's gifts, it was said, were approved by Albert Fall, as Secretary of the Interior, on the basis of allegedly misleading papers prepared by A. J. Ward, national counsel for the Creek Indian Tribe.

If the Commissioner of Indian Affairs can escape an investigation into the charge of conspiracy through a dismissal of guardianship proceedings in Oklahoma, because under the law Commissioner Burke is the guardian, with absolute control, then I ask what protection has an Indian like Barnett when the guardian puts through a job like that charged in court; and if the guardian, Mr. Burke, is willing to give practically all of Barnett's property away, including to Mr. McGuggan, who got $150,000, and Mott, the commissioner's friend, who got $50,000 of the McGuggan fee, then why keep 225,000 other Indians in bondage under a claim they are not able to protect themselves but need the help of a guardian like Commissioner Burke or even Mr. Meritt?

THE ATTORNEY GENERAL PROSECUTES MR. BURKE

The commissioner says in his report he, Burke, controls $1,600,000,000 of Indian property. No court review of his control is possible under existing law. That condition ought not to exist.

An amusing angle to the Barnett case lies in a long labored explanation offered by Mr. Burke before the House Appropriations Committee, Interior Department, hearings, pages 419 to 433, covering 14 pages. Mr. Burke testified, on page 428:

Mr. CRAMTON (interposing). Under what authority does the Department of Justice itself intervene in that suit?

Mr. BURKE. On the theory that the Department of Justice is the department of the Government that has general authority to institute suits for the Government; that is, that the law provides that they shall appear in certain instances. I presume the President might direct the department——

Mr. CRAMTON (interposing). Has the President directed the Department of Justice to intervene in this instance?

Mr. BURKE. I do not think he has.

Mr. CRAMTON. But it is a case that involved the authority of a department of the Government?

Mr. BURKE. Absolutely.

Mr. CRAMTON. The Department of the Interior requested the Department of Justice to appear in support of its contention?

Mr. BURKE. Yes, sir.

Mr. CRAMTON. And in support of its authority, as claimed by the Department of the Interior. But the Department of Justice has not done that, but has appeared in opposition to the course taken by the Department of the Interior.

Mr. BURKE. That is true.

The Attorney General of the United States intervened to protect Barnett, the Indian, from the scandalous "settlement" made by Mr. Burke in Washington.

Commissioner Burke did not know whether the President directed the Attorney General to bring suit to set aside Mr. Burke's settlement, but he was not asked, and an investigating committee should inquire if Mr. Burke did not go to the President and ask to have the proceedings of the Attorney General Sargent against him dropped. The result, if so, of any such reported request may be judged from the continued intervention thereafter by the Justice Department in its effort to protect Barnett from the "settlement" negotiated through Mr. Burke as Indian Commissioner. If correct, it shows that neither the President of the United States nor the Attorney General have surrendered to an Indian Bureau that generally seeks to control congressional action.

The specific charges made by me against the Indian Bureau, I again submit, are not referred to by Mr. Meritt excepting incidentally. He tries a shadow-boxing method of taking alleged newspaper reports of purported isolated remarks but does not join issue squarely on any one of a dozen or more definite charges submitted to the House. It is a squirming, dodging policy that may sound plausible before an audience not familiar with the facts. but no investigating committee would be deceived by such tactics. I am, however, answering specifically his "explanations" made to whatever alleged remarks of mine he takes exception.

THE INDIAN BUREAU'S VICIOUS INDIAN JUDGE BILL

To resume, Mr. Meritt's point "No. 8," on page 13 of his address, next quotes me as follows:

Last session the Indian Bureau was more brazen than ever before and drew a bill, introduced by Chairman LEAVITT, which gave $10-per-month judges, appointed by Indian agents, the right to sentence Indians to six months in jail, and also to fine $100 additional for violating rules of the agent of bureau or department. Without right of an attorney, without right of bail, or jury, or any appeal to any court, this bill drafted by Mr. Burke's bureau wiped out the last vestige of protection the Indian had.

Here he quotes me correctly as saying "without right of appeal to any court." Before this he said to his audience that I ignored that the arrested Indian had an appeal to Mr. Burke and Mr. Work. Not two appeals to Mr. Work have ever gone up in a single year, and not one ever reversed, if so, whereas many cases in white courts are appealed from every jurisdiction, but the American Indian citizen has no appeal from the bureau's Indian "court" to any court.

Meritt admits the bureau prepared the vicious judge bill introduced by Chairman LEAVITT at the bureau's request, and I restate every charge made in the quotation, all of which are true as made. Further, many Indians appearing before the House committee protested the bill, with the exception of one white attorney, a tribe's alleged spokesman from South Dakota, the home of Mr. Burke. All others protested against the bureau's Indian judge bill. Further, the bureau did not attempt to bring the

bill to the floor of the House notwithstanding it is usually a time-honored custom to report measures prepared by or approved by the bureau.

I predict that when an investigation can be had the Indian Bureau judge bill as drawn by the bureau will be buried a hundred fathoms deep by the committee report. To-day, without law therefor, these $10 judges are hearing complaints and condemning Indians without shadow of legal authority, whereas a substitute measure to give the Indian citizen substantially the same rights as white citizens in court was blocked by the bureau and not reported. Any desire of the bureau to do justice to the Indians or deal fairly with them may be judged from the record.

THE BUREAU'S HIGHWAY ROBBERY OF THE NAVAJOS

Next Mr. Meritt (No. 9), page 15, quotes me to his California audiences in substance correctly on the Lees Ferry bridge as saying:

This legalized robbery of the Navajo Indians of $100,000 was made possible by the aid of Commissioner Burke and Secretary Work. Remember, Burke in exclusive control of the Indians' property, urged the passage of a bill of no benefit to the Indians that would take $100,000 from the $116,000 in his hands if collected at once.

That statement is literally true. Meritt says in reply the $100,000 will not be paid by the Navajo Indians for several years. That is characteristic bureau dodging and is not the point. I have said the bridge charge of $100,000 is "legalized robbery." Senator CAMERON in the Senate declared it to be "highway robbery." Senator BRATTON, also familiar with all the facts, in the Senate declared it to be "iniquitous." Many others whom I quoted in my speeches of April 23 and prior thereto denounced the swindle committed on the Navajos and the brazen fraud committed on Congress. No one in either House defended the bill when the fraud was disclosed.

The Lees Ferry bridge authorization item was slipped through the House with the bureau's express approval on January 21, 1925, and February 14, 1925, it was passed by the Senate before its purpose and the $100,000 charge against the Navajo Indians was understood by either House or Senate. When the fraud perpetrated by the bureau on these Indians was disclosed in the omnibus bill the $100,000 Indian appropriation for the bridge was opposed in both House and Senate. In the Senate, where more debate could be had, the Interior Department bill of over $262,000,000 was held up for about two weeks while the Navajo bridge item of $100,000, a fraudulent charge against the Indians, was sought to be stricken from the bill. The heavy pressure for all the other items in the great appropriation bill finally overpowered the Senators who sought to disclose and prevent the fraud.

No man can face the facts and defend that fraud before any congressional investigating committee that knows procedure, and I trust a committee will go into this item, which in itself is a specific indictment of methods pursued by the Indian Bureau. Again, I repeat, not 1 Indian of over 28,000 Indians on the Navajo Reservation was called to Washington before the House or Senate committee to say that the Navajos would receive one dollar's worth of benefit from this $200,000 bridge, one-half to be paid by the Indians, that with approaches may eventually cost the Navajos several hundred thousand dollars, all for the use of white tourists who visit the Grand Canyon.

I further discuss my own recent trip across Lees Ferry elsewhere, but I now say no language can too strongly emphasize this fraud on the Indians, made with the approval of Commissioner Burke and his assistant Mr. Meritt.

Meritt sought to defend an existing reimbursable charge against the Navajos, now reaching over $900,000, when the Indians had only $116,000 in 1925 to their credit. He said in substance and in defense of the bureau, the Government has made many large direct appropriations for the Indians. The Government did so under its treaty pledges, but that in no way excuses the Indian Bureau for being party to a conspicuous, indefensible fraud on the Indians by compelling them to pay $100,000 for a white tourist bridge. As well defend murder by saying it saved the murdered man a long life of penury and misery.

INDIAN BUREAU'S APPROVAL OF THE VICIOUS OIL BILL

Mr. Meritt (No. 10, p. 21) next quotes me as follows:

An oil leasing bill had the approval of Commissioner Burke last session wherein 37½ per cent of the Indians' royalty of the 5 per cent of the first section of land was to be paid in taxes on that part of the 22,000,000 acres of Executive order Indian land that contained oil.

The quotation is correct in substance, and the facts in themselves are so outrageously unjust that Meritt's "defense" of an attempted fraud upon the Indians, reaching many millions of dollars, would have no standing before a committee that understands the facts. The best evidence of the truth of this statement is found in the course of the bill before both Senate and House committees. When exposed in committee they refused to pass the indefensible 37½ per cent oil tax proposal. Neither Senate or House committees were again misled by Commissioner Burke's defense of substantially the same bill that was slipped through both Houses the preceding session and only blocked at the last moment by Congressman DALLINGER, of Massachusetts, on a point or order. Such is the Indian Bureau's guardianship of its Indian wards with a bill involving many millions of dollars—possibly hundreds of millions—and where the only witness presented by the bureau was Mr. Hagerman, a bureau employee, who glibly declared to the Senate committee that the Indians would willingly pay 50 per cent tax from their royalties. The Senate committee did not believe Mr. Hagerman, and the committee, after several hearings, rejected the 37½ per cent tax proposal. What more can be said to put the stamp of disapproval on Indian Bureau methods?

BALL-AND-CHAIN INDIAN BUREAU PUNISHMENTS

Mr. Meritt, No. 11, page 25, of his speech, next quotes me as saying somewhere at some time as follows:

An Indian was recently kept in a 6 by 9 foot cell of a Wisconsin jail for six months, under unspeakable conditions, with a ball and chain attached to him. He had committed a misdemeanor.

This quotation is not true, nor of course was any such statement of six months actual imprisonment ever made by me. I did say that Moore, an Indian, was imprisoned by the Indian agent, through an Indian judge, and sentenced to jail for six months after an illegal arrest and illegal hearing. From affidavits placed in the record during the debate, Moore, the Indian, was placed in a filthy cell as described, with a ball and chain for ankle jewelry. Meritt, with true bureau logic, does not deny the arrest or kidnaping of young Moore or his imprisonment in a foul-smelling, toilet-stopped cell, chained with ball accompaniment and without any authority of law. He describes the jail building, however, as a fine temporary residence for the young Indian, who, he says, served less than 30 days and escaped. When attention was called to the illegal proceeding it is probable Moore was allowed or persuaded to escape.

Meritt, with usual Indian Bureau hypocrisy, says, "Mr. FREAR shed tears over the punishment of this Indian youth, who was charged by the Indian agent with the seduction of an Indian girl." For many years I was engaged in prosecuting criminal cases, and the charge of seduction and bastardy was commonly found on the court calendar.

I never failed to present the facts and sought to secure convictions where deserved, but never to my knowledge before was any prisoner in a Wisconsin jail chained up for murder, much less for seduction. Meritt pretends by inference he does not see any objection to a ball-and-chain treatment and further that anyone so objecting must justify seduction. That is not born of ignorance but of mendacious reasoning that governs the entire Indian Bureau, including Commissioner Burke, in its treatment of Indians, for practically the same "defense" of Spanish inquisition methods came from Mr. Burke in his "defense." In fact, Mr. Burke and Mr. Meritt reason much alike and with bureaucratic lack of logic.

Of course, any Indian youth if found guilty by a court of competent jurisdiction, should have been punished, but I apprehend that if all American youths who commit the offense with which Moore was charged were locked up in 6 by 9 foot cells, the roll call every year would reach many thousands and the chains to fasten them would be found stretched along many miles from New York to Hollywood. None others, I venture to assert, will be found chained in their cells. None others would be deprived of a court trial.

That does not condone any offense if committed by Moore, but no Indian judge had the right to lock up Moore with ball and chain any more than he had to lock up Meritt who would decorate Moore with such adornments. Hammitt, the agent, is a fit representative of the present bureau's methods. He is still in charge of the Wisconsin Lac du Flambeau Indian Reservation. Governor Blaine, now Senator elect from Wisconsin, made the ball-and-chain complaint to President Coolidge against Hammitt. The governor did not condone the offense, and yet I wonder if he will approve Hammitt and Meritt and Burke and their ball-and-chain punishment to Indians without trial by any court of competent jurisdiction. Time will show.

TRUE INDIAN BUREAU DECEPTION ATTEMPTED

Mr. Meritt (No. 12, p. 27) next quotes me as saying before the Commonwealth Club of San Francisco—

Nearly one-half million dollars have been spent from the funds of one Indian tribe whose death rate is five times that of San Francisco

against their will and in spite of the fact that not one person in a hundred who uses the bridge that this money has been spent for is an Indian.

The statement, standing by itself, is made misleading. In fact, the evident purpose is to mislead, and squirming and dodging was never more in evidence than in Mr. Meritt's defense of the Pima fraudulent bridge that I saw and will discuss more in detail later.

I stated at San Francisco that in addition and apart from an irrigation dam constructed on the Pima Reservation that will cost, with laterals, many hundreds of thousands of dollars, I had personally seen a beautiful stone and concrete white tourist bridge, of full roadway width, nearly a quarter of a mile, apparently, in length with approaches, that had been constructed with ornamental railings, lamps, and other extravagant accompaniments, all connected by a fine, modern highway through the lower part of the Pima Reservation, on the direct tourist highway from Phoenix to Tucson. That the cost of the bridge, apart from the dam construction necessary for irrigation, was estimated by people on the reservation to be over $400,000, and from two witnesses, one white and one Indian, of irreproachable character and high standing in Phoenix, I learned that not one Indian would use the bridge, compared to every 100 white people. In fact, one witness said a thousand white people were likely to use the extravagantly built bridge and expensive highway compared to every Indian who would cross it. These witnesses I will agree to furnish to an investigating jury and will be willing to testify myself to what I saw and learned on that reservation. I say positively that the Pima bridge, whether it costs $200,000 or $400,000 or more, when made a reimbursable charge against the Pima Indians, is an infamous outrage perpetrated on a poor Indian tribe and the fraud on the Indians in building a bridge for white tourists on a trunk highway is also a fraud practiced on Congress by pretending it was merely an irrigation dam for the Pimas, as stated by Meritt in his Oakland speech. His statement was an intentional perversion of the truth, unless ignorantly made. For this fraud the Indian Bureau is primarily responsible, and that imposition on Congress and on the Pima Indians is still justified by the squirming defense offered by Mr. Meritt.

For that act alone, which is on a par and as indefensible as the Navajo bridge, a house cleaning ought to occur in the Indian Bureau, and the broom ought not to miss this defender of the fraud, who grossly misrepresented the facts to his Oakland and San Francisco audiences.

WHY DOES THE GOVERNMENT PAY FOR MERITT'S 6,000-MILE JUNKET?

When a humble Representative in Congress begs the Indian Bureau for a small food supply or increased medical aid for sick and starving Indians in his district, or when distinguished Senators like JOHNSON, of California, and KING, of Utah, are bluntly told by Meritt that Indian Bureau records are not for idle congressional scrutiny, it may be some slight comfort to know that at times Meritt absents himself from his highly responsible post of duty in Washington to travel 6,000 miles across the continent and back with a portfolio under his arm containing his observations on the Pima bridge fraud and on the liberty of action he will accord Congress.

It will be remembered that Meritt draws down his regular stipend and with it several hundred dollars extra from undisclosed Indian funds under his control when traveling the 6,000 miles to read his bald misrepresentation about the $400,000 Pima white tourist bridge, not essential to irrigation. Only a thorough congressional investigation will do justice to many phases of the Meritt-Burke bureau maladministration.

Meritt says the death rate among Pima Indians is not that stated by me to the San Francisco Club. A congressional investigation can certainly determine the facts and also the responsibility for a fatality rate, if measurably true as stated to me, to be about five times the San Francisco rate. I have not relied on printed statistics from the bureau that have been placed before Congress affecting Indians generally but was assured by reputable people living on the Pima Reservation that the death rate was very heavy, and such witnesses, both white and Indian, I offer to present to any congressional committee that will make a thorough investigation of the present Indian Bureau's administration.

Mr. Meritt (No. 13), page 29, next quotes me, but when or where the statement was claimed to have been made he does not say. He quotes, or misquotes, as follows:

> Smarting under the criticism of its neglect of Indian education, the Indian Office has established show places at Albuquerque, Phoenix, Riverside, Fort Wingate, and elsewhere.

INDIAN BUREAU KIDNAPING CASES

There is a basis of truth in his statement of my charge, but not in the way quoted by Meritt. The action of the present Indian Bureau in tearing young children away from their parents and sending them hundreds of miles away to distant nonreservation schools was first begun on a small scale, but it now covers many Indian tribes. Indian parents can not see their children for years at a time, I was informed, and it is one of the most cruel practices of modern times. The statement quoted, I believe, is strictly true, although I did not express myself in that way. Let me give an instance of this phase of Indian Bureau maladministration.

INDIAN BUREAU RESPONSIBLE FOR TUBERCULOSIS

Out of a score of young children taken from a Navajo Indian reservation, living at from 6,000 to 7,000 feet altitude, down to the low Phoenix school altitude, I was informed that many incurred tuberculosis and several sent home in incurable stages of tuberculosis died in their reservation hogans, spreading tuberculosis among other members of the family living under the same roof. This is one of the most serious charges against the bureau, a charge made by responsible bureau employees, and, further, that the bureau is building up nonreservation schools and abandoning day schools on Indian reservations and is also proposing to close small reservation boarding schools now of easy access to Indian scholars. The information was not street talk, but came from responsible sources that command attention.

I am ready to place the facts before any investigating committee of Congress that will take up this cruel method of separating parents from their children by blind theorists who believe that through such separation the child will abandon its Indian parents and parental ways. No more fruitful bureaucratic control evidence, I believe, will be developed by a congressional investigation than the mistreatment of Indians in the manner described and the surrender and deportation of many thousands of children hundreds of miles away from their parents to these nonreservation schools.

(No. 14.) Mr. Meritt next criticizes my statement of "Tales of neglect and wicked concealment of health conditions among the Indians."

These facts I have offered to place before any investigating committee, but I do not care to repeat in detail complaints fully set forth in past speeches.

The refusal of the Indian Bureau to release the Florence Patterson Red Cross nurse health report of bureau negligence is characteristic. Again neglect and worse than neglect of the Zuni Indians, caused by the Indian Bureau's disposal of sewage from the reservation buildings and from the Indian school, can be brought directly to the doors of the Indian Bureau that located the buildings and caused disease and the resultant high death rate—not correctly reported, however—according to many Indians I met on the reservation. I studied conditions there, and can say that if any health officer in the average country village permitted health conditions to exist as they now exist on the Zuni Reservation he should be jailed with Mr. Meritt's ball-and-chain attachments, if necessary, and condemned to live under like conditions for the rest of his days.

(No. 15.) Meritt next and last makes an absurd statement, page 32 of his typewritten address, when he misquotes me to his Oakland audience as saying:

> I would rather be a serf in Russia under the old régime than to be one of our American Indians under present conditions, and I have seen both.

I hardly need say that no such statement was ever made by me, although the facts are bad enough.

First. I never pictured myself with either the condition of the American Indian or of a Russian serf. Second, I never made comparison with a Russian serf under the czar, because I visited Russia long after the czar was overthrown and all the serfs had been then freed by the Bolsheviks. Mr. Meritt's straw man that he held up to view before his Oakland audience was a subterfuge offered by a desperate, dodging man who refused to answer any of the specific charges against the bureau when placed before him.

THE INDIAN BUREAU AND DARKEST RUSSIA

In one or more speeches I have made reference to the Indian Bureau's cruel separation of parents and children for years at a time because of an attempt to alienate the children from Indian parents and Indian ways, according to the reason given me. I also charged that nowhere in the wide world, even in "darkest Russia" of to-day, were such things possible, and that the treatment and illegal punishments imposed by Indian judges appointed by Indian agents was unknown the world over. That the control of Indian property and of the Indian person by the bureau was without any comparison in this or any other country. These statements and others to the same effect I again repeat with an additional statement that if they are true and many of the facts relating to the absolute control

of property are admitted by the bureau, then the bureau should be given a thorough shaking up and at an early day the bureau system should be abolished.

I believe any thorough congressional investigation would reach the same conclusion after hearing Messrs. Meritt and Burke without any adverse witness being called to make a case against them. I have answered every "quotation" true or misquoted presented before the Oakland audience and have covered Meritt's alleged quotations from my remarks with a notation as to his answers or defense. Not one word from him, however, was offered in reply to 100 specific questions handed him by the Oakland Forum before he began reading his article. Not one direct response was made to the many direct charges quoted in my own resolutions presented to the House asking for an investigation, as set forth in substance at the beginning of these remarks. Only a shifty series of misquotations or half quotations prepared here in the city of Washington and carried by him 3,000 miles to the Pacific coast, there to be read before audiences whom he supposed might not know the facts.

As a rule they did know the facts and Meritt's effort served to stimulate friends of the Indians to renewed efforts to break through the hard-shelled bureaucracy that now effectually controls Indians, Senators, Representatives and all friends of the Nation's wards who seek the truth regarding the bureau's record of maladministration.

FIFTEEN ANDY GUMP CHALLENGES

Mr. Meritt made 15 vainglorious, mock heroic challenges to his critics but not to disprove that he and his associates have committed frauds on Congress and on the Indians; not to disprove that they have permitted ball-and-chain punishments; not to disprove they have separated Indian parents from children against their will and not to disprove misconduct and malfeasance in office. Most of Meritt's challenges on analysis show they are unrelated to the charges made against the bureau. An investigating committee will not waste time in trying to determine how fast a few oil wells are enriching a few Indians but will ask particulars about 200,000 Indians who have no oil wells and who, in many instances, are suffering from want of food, from lack of ordinary health conditions, and need of life's comforts now enjoyed by practically every white person old and young.

That is the issue. Speculative increase in Indian populations known to be grossly inaccurate by every student of the subject because of impracticability of any census in many places and uncertainty of mixed bloods is no answer to the specific charge here made that the Pima Indians were swindled and Congress misled by the ornamental white man's bridge now building with bureau approval, the same as the Navajo Indians were swindled and Congress misled by the white tourist bridge at Lees Ferry of which more hereafter. If a man steals from one man it is not usual to accept evidence in justification that he did not steal from another. In fact, the only evidence to be accepted is that he did not steal at all.

When Senators CAMERON and BRATTON denounced the Lees Ferry Bridge fraud with which they were acquainted as "highway robbery" of the Navajos, to which verdict I can bring a score of witnesses, white and Indian, living on the outskirts of the painted desert, it is no answer to say "the treaty obligations of the Government with the Indians were never more carefully respected and carried out to the letter." That high sounding bureaucratic utterance can best be determined by facts and not by platitudes.

Again I repeat that the man in the Indian Bureau most execrated by Members of Congress with whom I have talked is Mr. Meritt. Whether he deserves all the blame showered on his head I do not know nor care, nor do I care for his opinion, but I can say from personal knowledge that I was chairman of a subcommittee on the Crowe Indian bill when Mr. Meritt came before that committee. In the course of a fairly active practice I have examined many hundreds of witnesses and have cross-examined as many more, and as chairman of the 1921 aircraft probe I examined a hundred or more in that probe, but in all my experience I never had more difficulty in pinning a witness down to a plain statement than in the case of Meritt.

AN INDIAN BUREAU WITNESS WHO REPRESENTS THE BUREAU

The hearings before that subcommittee will show the slipping and squirming of the witness Meritt when a simple, straight issue was before the committee. I say this not especially to discredit the general course of Mr. Meritt in his Oakland speech, which he said he read from manuscript, but to forewarn any congressional investigating committee that may find its hands full not to be surprised, upon questioning Mr. Meritt on the 22,000,000-acre oil lease bill or Indian judge bill or Navajo bridge bill or Pima death rate, to find reply that the per capita wealth of the people of the United States is less than $2,500 while that of the American Indian is $4,700. I have met hundreds of American Indians, and I doubt if their actual per capita wealth, on which any market value could be placed, would much exceed 1 per cent of the $4,700 figure so glibly reeled off by the real orator of the bureau. Evasion and misrepresentation are certain to occur with this witness, but any committee can easily find out the truth.

For illustration, if the Indian Bureau's figures are correct, and 225,000 Indians own $1,600,000,000, then it may be demonstrated in cold mathematics that every man, woman, and child of the 225,000 incompetent Indians is worth per capita $7,000, or for an average family $35,000. If any witness can be found to testify that the average southwestern Indian families on any of the 20 reservations I visited have much above 1 per cent of that average amount, excepting in vague indeterminate guesswork, then the witness will be entitled to his place on the nonveracity throne at the side of the Assistant Indian Commissioner. These facts can be easily determined by a committee that would take a vast amount of bunk out of such bureau statistics.

Before concluding my discussion of Mr. Meritt and Mr. Burke and their bureaucratic methods, that savor of "darkest Russia," to use the phrase coined by Meritt in Oakland, I quote a portion of two affidavits, one executed by an American Indian citizen, a soldier in France, who fought for his country, and who was told by Mr. Burke, according to his affidavit, that "as long as you fight this bureau you will get all the fighting you want," with other statements which the affiant charged was bureau blackmail.

The other affidavit is from a Presbyterian missionary, an Indian, and elder in his church, who stated under oath that it was the toughest time he ever had, for although sent to Washington by his tribe by a petition signed by more than 300 Indians the bureau would not recognize him as a delegate or pay his expenses from the tribal fund. He stated, under oath, that the ball-and-chain punishment was enforced on his reservation.

Meritt, the shining light that illuminated the Oakland Forum, took the missionary into Commissioner Burke's office April 7, this year, and there Burke told him also that if Indians fight the bureau then they can get no legislation; they can not get any of their bills through, and he states Burke told the same thing to other Indians.

These affidavits, extracts of which are attached, were set forth in full in my speech of April 23, 1926, and they are referred to here because of the fact that Burke's threat to prevent any legislation in which these Indians were interested and his attempt to frighten them is only another phase of the influence he exerts on legislative committees through his power to accept or reject any bills brought before the committees and referred to his bureau.

The offense of the Presbyterian missionary and of the soldier who had fought in France lay in both cases in the fact that they had protested against an Indian "judge" ball-and-chain treatment of Indians on their reservation. To Burke and Meritt that protest was treason, which merited the threatened punishment set forth in their affidavits.

INDIANS CAN NOT GET LEGISLATION WHO FIGHT THE BUREAU

If any other bureau in Washington can exercise such autocratic, czarlike, and indefensible authority over its wards, the fact has not been brought to my attention. Intimidation and threats by Burke and Meritt should be investigated. The affidavits are herewith attached:

MR. BURKE AND MR. MERITT PUNISH THOSE "WHO FIGHT THE BUREAU"

This affidavit is executed in Washington, D. C., April 9, 1926, because two days ago, April 7, I was taken into Commissioner Burke's office by Mr. Meritt.

They told me that they had found out the statement about Benjamin Kills Thunder was not true.

I make the following affidavit:

I have known Benjamin Kills Thunder a long time and what I stated in a letter to Representative FREAR March 4 is common knowledge at the Fort Peck Reservation. It was about September, 1923, that Benjamin Kills Thunder was in the jail at Fort Peck Reservation. Benjamin Kills Thunder sent a note to me asking me to come to see him. He asked me to talk to the superintendent and ask the superintendent to take the chains off his legs. Benjamin told me he had left the reservation without permission and came to Fort Totten Reservation in North Dakota to see his relatives, and when he came back the policeman and the superintendent arrested him. Benjamin told me that he was tried before the reservation judge for leaving the reservation without a pass and was then sentenced to jail, and I think the term was 60 days.

Then I went and talked to the superintendent, Mr. James B. Kitch. Mr. Kitch said to me, "Now, Riker, you go and talk to that young

man and tell him to behave. Give him a good talking to." Mr. Kitch said also, "You know, Mr. Riker, if I let this boy go by without punishment, then other Indians will go off the reservation without a permit, and they may get in trouble, and I will have to bear the blame."

Mr. Kitch did not refer to any other charge against Benjamin Kills Thunder.

Then I went and talked to Kills Thunder and said, "I have sons like you, and I want you to take my advice like you were my own son." And I said, "Be good and do good." I did not know of any bad conduct, but I talked to him about the kind of bad conduct other young men are guilty of sometimes and talked with him just like he was my own son and said, "You know it is a very bad thing for you to be here with chains on your legs."

Benjamin Kills Thunder was very anxious to know what they were going to do to him, and I said if he would take the superintendent's advice and take my advice that Mr. Kitch had told me he would take the chains off his legs. So Benjamin agreed to take my advice, and then the policeman came while we were talking and they took Benjamin over to the blacksmith shop. I did not go into the blacksmith shop but went on toward the store, but they took the chains off in the blacksmith shop and then they turned him loose.

I testify that when I talked with Mr. Kitch and with the boy there was no reference to any other offense except going off the reservation without a permit, and there was talk about the case, and nobody ever spoke of any offense except that.

I still have in my possession the note that Benjamin sent to me. I have it here in Washington.

There is no doubt in my mind that the facts are the way I have told them.

Of course Benjamin Kills Thunder's case isn't the only one. All the Indians know they must have a permit and will be punished if they go off the reservation without one. This has been the case for a great many years, and it is the case to-day.

Mr. Burke told me at this interview two days ago that if the Indians fight the bureau then they can't get any legislation; they can't get any of their bills through. Other Indians who are here tell me he has told them the same thing. I know that when I make this affidavit I am bringing more trouble on me, but I must tell the truth.

I am a man of 58 and am a Presbyterian missionary at home and an elder in my church, and this is not my first trip to Washington, but it is the toughest time I have ever had. I am hurting myself. When the five-year program was begun and the Indian general council was called I was elected the first president by the tribe. I am down here on the authority of the tribe and on a petition signed by more than 300 individual members of the tribe. But the Indian Bureau will not recognize me as a delegate and will not pay any of my expenses from the tribal fund. All the bureau will do is to lend me money which has to be paid out of my individual property. It would be so easy for me if I would deny the truth and submit to the Indian Bureau in everything, but I am a man and I am a Christian, and I must be as truthful as I can.

RUFUS RICKER, Sr.

Subscribed and sworn to before me this 19th day of April, 1926.

MARY V. JUDGE, *Notary Public.*

(My commission expires April 15, 1930.)

Witness:

JUDSON KING.

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AN EX-SERVICE MAN AND HIS WIFE PROMISED LOTS OF FIGHTING

WASHINGTON, D. C., *April 9, 1926.*

I, Meade Steele, wish to make the following statement:

I believe that the Indian Bureau is going to make charges against me but I can't find out what these charges are going to be. I testify that the Indian Bureau took my wife into a hotel and attempted to get her to make statements against me.

I am an ex-service man. I volunteered and went through the whole war in Europe, and I have an honorable discharge. My tribe, who know me well, have sent me to Washington to represent them. The Indian Bureau will not recognize their right to do this, and they will not allow my expenses to be paid out of the tribe's money, but my father-in-law is helping me out and other relatives, so that I am able to stay here.

How can I down here in Washington fight against charges against my personal character which the Indian Bureau has got up with all its machinery? And what have these charges got to do with my work here, since my people officially sent me here? I call this blackmail, and I ask whether it is fair play for a great Government bureau to hound me with personal charges, which I can't meet in Washington, and to persecute my wife because I am here for work which my tribe has ordered me to do which the Indian Bureau doesn't want me to do. Mr. Burke said to me: "As long as you fight this bureau, you will get all the fighting you want." But I ask whether I should have to fight against slander and whether my wife has to be persecuted and evil charges against my character dragged together. I don't fight the Indian Bureau officers by trying to get evil stuff about their private lives, and I don't think that is the way public fighting ought to be done.

I have General Pershing's statement to me which says: "With a consecrated devotion to duty you have loyally served your country." Now, I must serve my tribe no matter what kind of hell they make for me.

MEADE STEELE.

Subscribed and sworn to before me this 9th day of April, 1926.

[SEAL.] MARY JUDGE, *Notary Public.*

(My commission expires April 15, 1930.)

Witness:

JUDSON KING.

BALL AND CHAINS IN MONTANA AND WISCONSIN

Ball and chains were worn in Montana for leaving the reservation without the agent's permission. According to the affidavit that was the punishment, and Meritt and Burke say if any Indian dares fight the bureau he will see that the Indian gets enough of it.

Ball and chains are worn in Wisconsin for an alleged misdemeanor, and anyone who protests against the high-handed Indian Bureau's agent is in sympathy with the alleged culprit's offense, according to the philosophy of Mr. Meritt and Mr. Burke.

All this occurs in free America, where, I repeat, the Indian Bureau has complete control of the property of 225,000 Indians, and by means of its illegal acts through $10-a-month Indian judges now controls the personal liberty of these same Indians. With this control also exists its virtual claim to control all legislation offered for Indian welfare.

One of the most pathetic sides of this Indian case is shown from the statement of Meritt that he has forced from a Montana Indian, who was thus chained, an affidavit that the chaining incident was not true. Instead of offering any correction to the Montana chaining, I would ascertain what force and threats were used to get the chained man to yield to Meritt when the missionary stood fast in spite of threats.

It is only another case of gross abuse of power that needs investigation. Burke and Meritt are to-day the court of last resort, subject alone, Meritt admits, to habeas corpus proceedings by courts having legal jurisdiction. No congressional committee will be deceived by the bluster and bluff now used to intimidate Indians. I conclude my reply to Meritt's statements with a suggestion that if any bureau in Washington is more autocratic and illegally objectionable in its methods than the Indian Bureau, then Congress has a double job to perform, in which Indian welfare, however, should come first.

In conclusion of these remarks, largely addressed to Mr. Meritt's carefully prepared defense, I repeat that every material charge made by me against the Indian Bureau before the House last session, and as set forth in substance at the beginning of my remarks, is shown to be true, otherwise either Mr. Burke or Mr. Meritt would have denied them in their two widely published defenses.

RECORD OF THE TWO MAIN INDIAN BUREAU WITNESSES

The refusal of both men to answer or dispute any of the material charges, but to attempt shifty defenses excusing matters that could not well be dodged like the ball and chain episodes or evading charges affecting their absolute control of the person and property of 225,000 American Indians is in itself evidence that such charges are true, as stated. No dispute can be offered to either charge. The concealment of records by Messrs. Burke and Meritt, thereby covering up appalling neglect of Indians with heavy death rates therein disclosed, is only one of the many autocratic rulings by which the present Indian Bureau retains its iron-handed rule without regard to law.

I have sought herein as briefly as possible to point out the tissue of misstatements and evasions made by the official spokesman of the Indian Bureau, who was sent 6,000 miles at Government expense to galvanize the Indian Bureau's control. Meritt's complete failure to mislead the Californians came from a knowledge of actual conditions among the Indians had by many of his auditors.

My own trip, of approximately 4,500 miles, among western and southwestern Indian tribes has given me first-hand knowledge of many Indian matters hereinbefore discussed, and I repeat that, based on such personal knowledge, I believe true every specific charge set forth in my resolution asking for a congressional investigation of Indian Bureau misrule and maladministration. That investigation Congress owes to itself because of the misleading and deceitful bureau methods used to put through Congress legislation unjust to Indians. More important, the whole subject of Indian misrule is due primarily to the failure of Congress to grapple with the Indian problem

instead of leaving these wards of the Government to the tender mercies of a discredited bureaucracy.

In order to expose the insincerity and lack of knowledge, or of courage on the part of Missionary Meritt, who traveled 6,000 miles at Government expense to read his carefully prepared transcript directed to disconnected expressions he alleged were made by myself at various places and times, and to which he devoted his long article, I call attention to 100 pointed specific questions submitted to Mr. Meritt before the Oakland Forum meeting, to which he refused to reply. The questions were submitted by leading citizens of California, among whom were ex-Congressman William Kent, of San Francisco, a man of large affairs and a philanthropist known throughout the West, and in fact throughout the country; Dr. John R. Haynes, of Los Angeles, a signer, and regent of the State University, is known throughout the State as a man of affairs and of high standing; Mrs. Duncan McDuffie, chairman of Indian welfare of the League of Women Voters of California, is another whose name was attached to the questions, should have brought some explanation from Mr. Meritt. Other names of equally well-known people were on the letter of inquiry.

For good and sufficient reasons Meritt avoided all the questions and left California with a record of artful dodging that did not have even the semblance of art in the inglorious exit of its chief performer. Six thousand miles of hard travel from Washington to California and then back deserved better results than those obtained by the Assistant Indian Commissioner.

The questions submitted by the Indian welfare organization, and which the bureau's mouthpiece refused to answer, are offered herewith. The answers can readily be furnished by a real investigation by a congressional committee, but will not be obtainable from any whitewashing committee as proposed by the bureau to be named by Secretary Work.

Questions on the Indians and the Indian Bureau addressed to the Hon. Edgar B. Meritt, Assistant Commissioner of Indian Affairs, by many members of Indian welfare organizations and which he failed to answer in his California meetings:

INDIAN HEALTH AND THE INDIAN BUREAU MEDICAL SERVICE

1. Has the Indian Bureau exclusive responsibility for the health of the 225,000 restricted Indians?

2. Do the mortality tables of the Federal census show that the white death rate in the registration area is below 12 per 1,000 per year, and that the Indian death rate in the registration area is steadily increasing, as follows: In 1921, 17.5 per thousand; in 1922, 19.2 per thousand; in 1923, 22.5 per thousand; in 1924, 25.9 per thousand?

3. Does the Federal census show that the Nebraska Indian death rate from 1921 through 1924 was 45.7 per thousand per year, and that the Wyoming Indian death rate from 1921 through 1923 was 48.8 per thousand per year?

4. Did Secretary Hubert Work use the following words in his recent statement called "Then and now"? "Continuing surveys are being conducted on all reservations, with accurate records concerning each Indian, showing whether he has built a home, whether he is cultivating a farm or engaged in livestock, and the progress he is making toward self-support."

And did Commissioner Charles H. Burke on October 22, this year, use these words: "The figures collected from the various Indian reservations relating to morbidity, mortality, etc., are of necessity estimates as accurate as present conditions allow."

If Secretary Work's statement is correct, can Commissioner Burke's statement be correct? Can accurate individual records of each Indian be kept, showing whether he is in the livestock business, has built a home, etc., when the bureau, according to Commissioner Burke, only estimates whether he is alive or dead?

5. Why, when the Federal census reports 2,675 Indian deaths for the death registration area alone, containing less than one-third of the Indian population, does the Indian Bureau report only 1,991 deaths for the entire country?

6. Why has the Indian Bureau's annual report, each year since 1921, while giving alleged population totals, omitted to report the number of Indian births and of Indian deaths?

7. Is it a fact that, assuming that the findings made in the bureau's Southwest trachoma campaign of a year ago are typical, the number of Indians suffering from trachoma, leading to blindness, is 70,000 in the entire country? Is it a fact that 40,000 cases is a minimum estimate?

8. Is it a fact that the Indian Bureau, speaking through yourself, asked of Congress not an increase, but a reduction, in the Indian health and medical appropriation for the current year?

Are you correctly quoted on page 392 of the House Appropriations Committee hearings for the current year, as follows:

| | |
|---|---|
| Appropriation for 1926 | $700,000 |
| Estimate for 1927 | 675,000 |
| Decrease | 25,000 |

and on page 396, the same hearings, as follows: "The reduction in the amount requested for 1927, owing to the fact that prices and expenses have not materially changed, will not permit any considerable expansion of the present (health) work"?

9. Is this policy toward Indian health work due to the demands of the President's economy program?

Had the President's economy program been adopted in 1919, when you, testifying before the special investigation Committee of the House on Indian Affairs, used the following words: "After this next year—i. e., beginning 1921—I think there should be a gradual decrease of the appropriations carried in the Indian bill, and the only sure way for bringing about that decrease would be for Congress to arbitrarily direct that there be a decrease of appropriations for, say, a period of four years, of 5 per cent each year. * * * I do not believe the Indian Service would be very materially hurt, and it would result in saving the Government approximately $750,000 a year"? (Hearings, 1919, Vol. I, p. 806.)

In view of this position of the Bureau and of its request for reduced health appropriations, is Congress or the bureau responsible for the starved Indian health work?

10. Did Secretary Hubert Work recently state in "Then and Now" that United States Public Health Service methods had been installed in all branches of the Indian medical service?

Does this statement by Secretary Work follow upon the recommendation made by the House Indian Affairs Committee, the Board of Indian Commissioners, the National and Provincial Association of Public Health Officers, and others, that the Indian medical service should be transferred to the United States Public Health Service?

11. Do you consider that the above recommendation is met, or that Secretary Work's claim is borne out, through the transfer to the Indian Bureau of three physicians from the United States Public Health Service, and do you confirm the statement that the present facts, specified below, are as follows:

That the Indian Bureau has not yet furnished public-health nurses to the Indians of California?

That the Indians of the Western Navajo jurisdiction, 7,000 in number, are served by one doctor, without a field nurse, without a hospital, and without diagnostic facilities?

That the dental work for the 225,000 Indians exclusively under Indian Bureau ministration is carried out by seven dentists?

That an excessive death rate from enteric diseases is caused among the Zuni Pueblo Indians through the fact that they are compelled to drink from shallow wells polluted by sewage dumped from the Indian agency buildings up the land slope above the Indian village?

That Navajo and Apache children who contract tuberculosis in the boarding schools are sent home to die in the hogans and wickyups of their families, under conditions practically insuring that they will infect their families before they die?

That Secretary McDowell, of the Board of Indian Commissioners, reported in 1924: "The survey of seven of the boarding schools attended exclusively by Navajo children disclosed the fact that 46.64 per cent of the pupils were trachomatous."

That in the face of the excessive morbidity of the Navajos, the Indian Bureau between the years 1920 and 1924 spent the following sums in the Navajo field, as reported by Commissioner Burke to the Senate Committee on Public Lands and Surveys: For Indian Bureau salaries $1,620,837, and for medical supplies for Indians $31,267, this being $13 in bureau salaries for each Navajo Indian each year and 25 cents for medical supplies for each Navajo Indian each year.

THE PIMA INDIANS AND THE INDIAN BUREAU

12. Has the bridge over the Gila River near Sacaton, Ariz., costing more than a third of a million and equipped with decorative lighting globes, been charged reimbursably against the Pima Indians?

13. Did the Indian Bureau indorse, or, on the other hand, did it protest against, this charge against the Pima Indians?

14. Did the Pima Indians ask for this bridge or consent to this mortgage against their land?

15. Do the Indian Bureau records show as follows:

That 4,890 Pima Indians were allotted in 1921, of whom 1,103 had died before 1926, making a yearly death rate of 58 per thousand, about five times the white death rate?

16. Is it true that the excessive Pima death rate, consecutive over a four-year period, is not due to any sudden epidemic, but to slow starvation and hopelessness?

17. Is it true that the Pima Indians lost their irrigation water as a result of Indian Bureau negligence in its capacity as guardian? Is it a fact that Congress appropriated the money for putting water on the Pima lands two years ago and that not yet has any construction work been started?

THE INDIAN BUREAU AND REIMBURSABLE LOANS TO INDIAN TRIBES

18. Is it a fact that reimbursable loans are mortgages against the Indian tribal property, the lien, when not paid, standing against the property and descending to the allotted property?

19. Is it a fact that in making reimbursable charges against the Indians Congress acts with the advice of the Indian Bureau as in all other legislation affecting Indians?

20. Did the Department of the Interior, through Secretary Work, indorse the charge of $100,000 against the Navajo Indians for the Lees Ferry Grand Canyon Bridge?

21. Did Secretary Work, in writing, inform Congress that this bridge "would be of equal benefit to the Navajos as to the white settlers"?

22. Did the bureau recommend a $40,000 bridge across the Rio Grande, connecting through highways, the whole sum charged against the San Juan Pueblo Indians? Did it indorse another $40,000 bridge of general use, which was charged wholly against the Cochiti Pueblo Indians?

What is the per capita yearly income of these Indians as shown by Indian Bureau records?

23. Did these tribes either ask or agree to have this reimbursable charge made against them; were they consulted at all, and where is the record showing that they were consulted or informed?

24. Are there not other bridge and highway charges against the Navajo Indians, totaling $700,000 before the Lees Ferry charge was added on, and has not the Navajo Council declared that $450,000 of this charge represents an expenditure on improvements for the white community?

25. Did not you, Mr. Meritt, admit to the House Indian Affairs Committee in 1919 that more than $3,000,000 of reimbursable charges then existing were illegitimate and ought to be wiped out? Has the bureau as yet made any move to wipe out these reimbursable charges?

26. Do not the reimbursable charges against the Indians now total more than $25,000,000? Did not the assistant chief of the bureau's finance division testify in 1919 (p. 818, Vol. I, House Indian hearings) that the charges then stood at $23,000,000?

27. Is it the policy to collect these charges or to allow them to accumulate indefinitely?

28. Was the assistant chief of the bureau's finance division correct when he testified that up to 1919, $8,247,933 of reimbursable debt had actually been collected from the Indians, and that $2,545,367 of this sum had been collected during the years when you, Mr. Meritt, were an Indian Bureau official? (Pp. 820–821, House Indian hearings, 1919, Vol. I.)

29. Did the Indian Bureau, or did it not, indorse the Gila River (Pima) reimbursable bridge project?

30. Did the Indian Bureau indorse the charging against the Kaibab Reservation in Arizona of the cost of the tourist road connecting the Grand Canyon with Zion National Park for the distance that it traverses this reservation? And is it a fact that the cost of that road is being collected in yearly installments from these very needy Indians?

31. Is it a fact that the Indian Bureau sold to the Kaibab Tribe a tribal herd; and now that the tribe has paid for it is again selling the identical herd to the individual members of the tribe, and is using the proceeds toward paying for the tourist road above mentioned?

32. Is it a fact that the Kaibab land was leased at less than 1½ cents an acre to white cattlemen and the lease proceeds used to pay for the above tribal herd, whose resale to the Indians, now that they already own it, is producing the revenue for paying the tourist road costs?

THE INDIAN BUREAU AND LEGISLATION

33. Is it a fact that all legislation affecting Indians, whether dealing with departmental matters or with such a question as Indian land rights and civil rights, is referred to the Indian Bureau, and that no committee consideration is given to any bill until the bureau has passed on it in writing?

34. Did the Indian Bureau in 1926 indorse the Bratton-Hayden Indian oil bill, providing that 37½ per cent of the oil revenue of the Indians from their Executive-order reservations should be paid to the States "in lieu of taxes," and declaring in effect that the Indians were not owners but simply tenants of their Executive reservations?

35. Did the bureau in 1926 draft and indorse the Leavitt bill, providing that Indian superintendents and their subordinates could arrest any reservation Indians and jail them for six months without warrant, without jury trial, and without appeal to the courts?

36. Did the bureau in 1926 oppose the Wheeler-Frear bill which gave to Indians a court hearing before their wills could be invalidated by the bureau?

37. Did the bureau in 1926 oppose the Wheeler-Frear bill which required appraisal, public advertisement, and competitive bidding in the sale and lease of Indian land?

38. Did the bureau indorse the Bursum bill of 1922, which canceled the titles of the Pueblo Indian tribes to the greater part of their land deeded them by Spain and guaranteed by President Lincoln?

39. Did the bureau in 1926 oppose the La Follette-Frear bill, giving to the Federal courts jurisdiction over civil and criminal matters of the Indians, and was the effect of the bureau's successful opposition to perpetuate, as has been charged, the bureau's absolute control over the Indians, including its power to jail them without jury trial or any court appeal?

THE INDIAN BUREAU AND THE CIVIL RIGHTS OF INDIANS

40. Did the Indian Bureau draft and indorse H. R. 7826, which sought to give renewed congressional authority to the bureau for continuing its practice of arresting Indians and jailing them without due process of law?

41. Can and does the Indian Bureau by regulation create Indian offenses punishable by jail?

42. Is this code of Indian offenses printed and made available to the Indians and others?

43. Is there at present any case where Indians charged with offenses can be convicted and jailed without an absolute right to jury trial and court review?

44. Has the Indian Bureau the right to sell any land belonging to an allotted Indian who has died, this sale being by private arrangement if the bureau desires, and the proceeds of this sale being controlled by the bureau and not by any probate court?

45. Has the bureau the right to declare any allotted Indian incapable and remove him from his land without his consent and without court review and lease this land to a white man?

46. Can Indians declared mentally incompetent by the bureau and thus held in the bureau's control, appeal their question of competency to the courts? How many incompetent or restricted Indians are there?

47. Is it a fact that Indians are prohibited from making contracts save with the bureau's explicit consent?

48. Is it a fact that when the Indian Bureau is one party of interest and the Indian or Indian tribe is the opposite party of interest, the choice of the Indian's attorney is controlled by the bureau?

49. Has the Indian Bureau the power to destroy the testament—the will—of an Indian without showing cause in any court and without court review of its action no matter what may be the Indian's wishes?

50. Is it a fact that prior to 1906 the Indians had court protection in the matter of their wills; and that this was taken away in 1906; and that the bureau in 1926 successfully opposed the Wheeler-Frear bill seeking to restore court protection to the Indians in this matter? Who was responsible for the act of 1906?

51. Are the Indians, thus held in duress by the bureau, voters and citizens?

* * * * * * *

THE INDIAN BUREAU AS GUARDIAN OF INDIAN PROPERTY

53. Is the Indian property, over which the bureau is guardian, correctly stated to be over a billion and a half dollars?

54. Does the bureau as guardian render an account and report to any court of specific funds, transactions, etc., which report the Indian wards have a right to inspect?

55. Is the sale and lease of Indian properties, such as lands, timber, mines, carried out by the bureau as guardian, regulated in a specific manner by statute of Congress or carried out according to the rules and regulations of the Interior Department?

56. Is there any law requiring that in selling and leasing Indian properties the bureau shall appraise the value; advertise the sale or lease, and sell or lease to the highest bidder only?

57. Is there any way by which Indians may secure court review over the bureau's acts in the handling of their property?

58. How much Indian money, controlled by the bureau, is deposited in local banks in the Indian country?

59. Is it true that the Rattlesnake structure in the Navajo Reservation was sold by the Indian Bureau for a $1,000 bonus and then resold for over $3,000,000?

60. Was the bureau required by any law to accept a $1,000 bonus for a structure that was resold by the white purchaser at this enormous profit?

61. Who negotiated this sale of the Rattlesnake structure? Is Governor Hagerman still in charge of Navajo oil leasing for the Indian Bureau? Who appointed Governor Hagerman to his position as commissioner of the Navajo Tribes? What is Governor Hagerman's relation to the Pueblo Lands Board? Did Governor Hagerman testify before the Senate Indian Affairs Committee that the Navajo Indians were willing to surrender one-third or even one-half of their oil revenue from their executive reservation to the States of Arizona, New Mexico, and Utah?

62. Is it a fact that Secretary Work has reported to the President on the Jackson Barnett case, stating that Barnett's wife brought him to Washington and there worked out with the Commissioner of Indian Affairs the arrangement for dividing his property as follows: $550,000 to herself, $550,000 to the Baptist Home Mission Society?

It is true that in reporting to the President, Secretary Work added the statement in effect that no malfeasance was apparent in such action by the bureau officials?

Is it true that Commissioner Burke before he authorized the Barnett transaction had access to the confidential reports of the bureau inspectors wherein it was recited that the woman, Annie Laurie Lowe, was of ill repute and had kidnapped this aged half-wit, illiterate Indian, had made him drunk, and in this condition had married him? Had Secretary Work access to these confidential documents when he wrote his letter to the President?

Is it a fact that a part of the money turned over to Annie Laurie Lowe has been traced, and can you state who was the apparent recipient of such money?

63. Is the Indian Bureau, including its salaries, supported by the Indians themselves to the amount of about $2,000,000 a year?

64. Have the tribes any voice in deciding whether their money shall be used for the support of the Indian Bureau?

65. Is the Indian tribal money, used for Indian Bureau support, taken from the interest or principal of the tribal funds?

66. Was Commissioner Burke, when chairman of the House Indian Affairs Committee, chiefly responsible for establishing the policy of supporting the bureau from Indian funds? Did you, Mr. Meritt, testify in 1919 that such had been the case?

67. Did you state to the House Indian Affairs Committee in 1919 that you believed Indian tribal funds should be used for Indian Bureau purposes whenever they were available?

68. Is it a fact that the Crow Indian tribal fund totals $346,000, and that $90,000 of this total is being used this current year for Indian Bureau expenses?

69. Is it true that this expenditure of $90,000 of the Crow money does not pay for a single teacher, a single public-health nurse, or the financing of a single Crow boy or girl for higher education?

70. If the Indians are consulted about the use of their tribal money for these purposes, where is the record of their opinion to be found?

THE INDIAN BUREAU AND INDIAN RELIGION

71. Does the bureau censor or prohibit the religious ceremonials of Indian tribes?

72. Did Commissioner Burke, of the bureau, issue the following statement and order in 1923:

"The sun dance and all other similar dances and so-called religious ceremonies are considered 'Indian offenses' under existing regulations, and corrective penalties are provided. I regard such restriction as applicable to any (religious) dance that involves * * * the reckless giving away of property * * * frequent or prolonged periods of celebration * * * in fact, any plainly excessive performance that promotes * * * idleness, danger to health, and shiftless indifference to family welfare. In all such instances the regulations should be enforced."

73. Did Commissioner Burke, February 14, 1923, transmit to all superintendents certain recommendations made by certain missionary bodies, with these words: "The main features of the recommendations may be heartily indorsed," the recommendations including the following:

"That the Indian (religious) dances be limited to one in each month, in the daylight hours of one day in the midweek, and at one center in each district, the months of March, April, June, July, and August being excepted (no dances in these months).

"That none take part in the dances or be present who are under 50 years of age.

"That a careful propaganda be undertaken to educate public opinion against the (Indian religious) dance."

74. Have these orders, recommendations, and regulations been rescinded?

THE NONRESERVATION INDIAN BOARDING SCHOOLS

75. Did the Board of Indian Commissioners use the following words in its report to the Secretary of the Interior for 1924:

"The present plan appears to be to reduce the reservation boarding schools to taking care of the first three grades, while the children more advanced are sent to distant schools. * * * These children are to be removed from even occasional contact with their parents, not only at an earlier age than has been the rule, but * * * the Navajo boy of 10 years who is taken to Phoenix, for instance, undergoes an intensity of heat that could never be known on his lofty plains. If he learns to farm here, it is in a country of irrigated soil, of cotton and semi-tropical fruits. * * * If his health survives the change, his spirit is less likely to do so."

76. Did you report to the House Appropriations Committee in January, 1926, using the following words: "Our determined policy of requiring every healthy Indian child between the age of 6 and 18 to be in some school"?

77. In view of that policy, what is done where local day schools or local boarding schools are not provided by the bureau?

78. Is it the practice for quotas to be delivered to the reservation superintendents, stating the number of Indian children they are expected to deliver to the specified nonreservation boarding schools, and is it not the duty of these superintendents to fill these quotas?

79. Is it a fact that the Hopi Pueblo girls when they approach the age of puberty are taken away from their homes and their tribe to nonreservation schools?

80. Is it a fact that the bureau, in the case of Indian children taken away to nonreservation schools, pays their way home only once every four years?

81. Is it a fact that during the summer vacations the Indian children are persuaded to remain away from home even when their parents are able to pay their transportation, and that last year Indian boys aged 10 and 12 years were sent from Albuquerque and Santa Fe to work as child labor in the beet fields of Kansas and their earnings were held for school expenses?

82. Is it a fact that Navajo children, when they contract tuberculosis in the nonreservation schools, are thereafter sent home to die in their hogans under conditions making certain the infection of their families? Is this one reason why the Navajo tuberculosis death rate is extravagantly high?

ALLEGED SUPPRESSION OF REPORTS AND DOCUMENTS BY THE INDIAN BUREAU

83. Did the American Red Cross in 1924 complete an extensive study of Indian health conditions and Indian medical service?

84. Has the Commissioner of Indian Affairs suppressed this report, refusing to permit its scrutiny after written request for this privilege by Representative PHIL D. SWING and by Senator HIRAM W. JOHNSON?

85. Did the National Bureau of Municipal Research complete for President Taft, in 1913, and subsequently for a joint committee of Congress, an elaborate report on the Indian Bureau's business methods, containing exceedingly grave charges against the Indian Affairs system; and was this report completely suppressed through Indian Bureau influence, you, Mr. Meritt, being Assistant Commissioner of Indian Affairs at the time—is the suppression of this report being continued?

86. Are not the reports of all Indian Bureau subordinates, without exception, including the reports of supervisors, reservation superintendents, etc., required to be held confidential, so that neither the general public, the Indians, nor Congress knows their contents?

87. Should not the bureau give to the public a statement of why it continues the suppression of the Bureau of Municipal Research report, and why it continues the suppression of the American Red Cross report?

THE INDIAN BUREAU AND THE PUEBLO INDIANS

88. Did the Indian Bureau, when the Pueblo tribal delegates were in California last November, issue to the press a statement that the Pueblo Indian cause was financed by Soviet Moscow?

89. Did Commissioner Burke, speaking before the House Appropriations Committee in that same month, 1925, assume responsibility for this charge and lament that the people of California had refused to be influenced by it?

90. Is the Pueblo Lands Board charged by Congress with the duty of determining whether the Indian Bureau has been delinquent as guardian in the protection of the Pueblo lands?

91. Is Governor Hagerman, who sits as a member of this judicial body, an employee of the Indian Bureau, drawing a salary from the bureau?

92. Has there not existed for the past four years an All-Pueblo Council, consisting entirely of Indian delegates chosen by each Pueblo, which has held meetings to discuss questions of mutual concern?

93. Has not this All-Pueblo Council at all times been open to official Government representatives?

For example, did not this council listen to such official representatives when they urgently advised the Pueblos not to employ legal counsel to represent them before the Pueblo Lands Board? And did not the council after deliberation reject this advice and assert their right to be represented by legal counsel and to appeal from the lands board to the courts as permitted by law?

Furthermore, has not the superior wisdom of the All-Pueblo Council been justified and confirmed by a member of the Pueblo Lands Board who is quoted in a Santa Fe paper recently as saying to the Pueblos, "You can not sit idly and expect to win a case in court. The other side is preparing its case and you must prepare yours"?

94. Has not this All-Pueblo Council, at various times, made its desires known to the Government, thus serving as an intermediary and the Government?

For instance, did not the chairman of this All-Pueblo Council last winter wire its opposition to the bureau bill, H. R. 7826?

95. Did this All-Pueblo Council not meet in October of this year?

96. Upon information furnished by members of the Taos Council to the effect that the Indian Bureau, through the instrumentality of Commissioner Hagerman, proposed to organize a new council for the Pueblo Indians, did not this body declare itself to have functioned successfully for four years and likewise did it not declare its intention to continue to function, in affirmation of which it set forth the rules under which it has always operated in the form of by-laws?

97. Was not an official representative of the Indian Bureau under instructions from Commissioner Burke, and did the bureau not have a stenographic record made of the proceedings?

98. With this channel of expression already existing and functioning, why did the bureau deem it necessary to take steps to organize a new council under the chairmanship of a bureau employee, Commissioner Hagerman, who is also a member of the Pueblo Lands Board?

99. Did this substitute council, which has been named the United States Pueblo Council, meet in Santa Fe on November 15, 1926, with Commissioner Hagerman presiding, and did Commissioner Hagerman say, as quoted in a Santa Fe paper, "Hold as many councils among

yourselves as you wish, but remember they will have no official recognition without Government representation"?

100. Did Governor Hagerman, then as now an employee of the bureau, testify before the Senate Indian Affairs Committee on March 10 last that the Navajos were willing to surrender one-third or even one-half of their royalties from oil on their Executive reservation to the States?

Mr. LEAVITT. Mr. Chairman, I move to strike out the last two words. Perhaps I can give some information in reply to the question of the gentleman from Wisconsin. Each of these allotments of land on an Indian reservation requires a specific act of Congress giving authority. Out of our Indian Affairs Committee in the last session we reported a bill authorizing the allotment of lands on a specific reservation, the Northern Cheyenne. It was my own bill. The first step must be to make up the tribal roll. That generally takes one season, as it is necessary to know how many allotments there must be.

Mr. FREAR. Of course, I understand the procedure; but what I am interested in learning is how long it will take or what is the estimate for this allotment finally to be completed if only 32 were allotted this last year outside of the Standing Rock Reservation and it will take three years for the Standing Rock Reservation. Now, is there any particular time in view when they finish their allotment?

Mr. LEAVITT. I think nobody could have given a very good reason why the Tongue River lands were not allotted previously. But it requires the introduction and passage of a bill at the initiative of a Member of Congress who represented the reservation before it could be brought about.

Mr. FREAR. Rather than on the part of the bureau.

Mr. LEAVITT. The bureau did, in the case of the Tongue River, send up a bill in accordance with the recommendation that I had in mind. As I understand it, the Tongue River Reservation was about the last upon which no allotment of lands had been made or authorized. There are only a few left on which provision has not been made to at least start the work.

As an illustration of what is still continually happening, however, on the Crow Reservation, quite a number of years ago a general allotment act was passed and general allotments made, but some land was returned to tribal ownership from homesteaders who had failed to meet the terms prescribed. That required another later act to allot lands to living Crow Indian children who had been born since the previous allotment had been made. I presume that sort of thing will go on perhaps indefinitely until all lands available are allotted.

Mr. FREAR. Can the gentleman tell me what proportion of the land remains unallotted of Indian lands?

Mr. LEAVITT. I can not give that with any accuracy.

Mr. WILLIAMSON. I may say that as to a great many reservations all the land has been allotted and there remains none to be allotted. The Standing Rock Reservation is the only one where the allotments have not yet been made.

Mr. LEAVITT. I think that is true of most other reservations, where there has been a complete allotment at this time.

The CHAIRMAN. The pro forma amendment is withdrawn. The Clerk will read.

The Clerk read as follows:

For the payment of newspaper advertisements of sales of Indian lands, $500, reimbursable from payments by purchasers of costs of sale, under such rules and regulations as the Secretary of the Interior may prescribe.

Mr. ROMJUE. Mr. Chairman, I move to strike out the last word, in order to ask the chairman of the subcommittee a question.

The CHAIRMAN. The gentleman from Missouri moves to strike out the last word.

Mr. ROMJUE. On line 19 of page 17 is there not a typographical error—"purchasers of costs of sale"? Should it not be, "from payment by purchasers and costs of sale"?

Mr. CRAMTON. This appropriation is reimbursable from payments by purchasers of costs of sale; by payment by purchasers. It may be clumsy language, but I think it is probably correct.

Mr. ROMJUE. Line 19, of page 17, does not carry the word "payments."

Mr. CRAMTON. The language reads "$500, reimbursable from payments by purchasers."

Mr. ROMJUE. Should it not be "payments and"?

Mr. CRAMTON. No; I think it is right as it is. It is clumsy language, but I think it is fairly accurate.

The CHAIRMAN. The pro forma amendment is withdrawn. The Clerk will read.

The Clerk read as follows:

For the purchase of lands for the homeless Indians in California, including improvements thereon, for the use and occupancy of said Indians, $7,000, said funds to be expended under such regulations and conditions as the Secretary of the Interior may prescribe.

Mr. FREAR. Mr. Chairman, I move to strike out the last word, for the purpose of propounding an inquiry to the chairman.

The CHAIRMAN. The gentleman from Wisconsin moves to strike out the last word.

Mr. FREAR. I can not express my own ideas any better than to read what the chairman of the subcommittee has to say on page 73 of the hearing, and I am asking him for that reason what attempt is being made to settle this question, so that the Indians can be provided for and taken care of instead of, as the chairman well said, "having these dribbling appropriations running along for a long period of years."

I call attention to a fact with which he is familiar; that in this case the provisions require the department to do certain things, and appropriations are being made for $7,000 this year, and $20,000 several years ago. It is as the chairman said, dribbling.

Mr. CRAMTON. If the gentleman has read the hearings, he knows all that I know about the subject and perhaps something in addition. But as to the California situation, the gentleman has noticed that in the hearings the committee went into that matter more carefully this year than heretofore. We are trying to find out how much it would cost to buy all the lands as we need to buy to take care of the homeless Indians in California. It did not seem that the information was at hand to warrant taking a definite step at this time, but we did go into it sufficiently to feel assured that a year from now, when the bureau officials come before us, they would have a general statement as to the number of Indians to be provided for and the amount of money necessary to take care of them, and then it would be the idea of the committee that we ought to proceed to clean up the situation.

The CHAIRMAN. The pro forma amendment is withdrawn. The Clerk will read.

The Clerk read as follows:

INDUSTRIAL ASSISTANCE AND ADVANCEMENT

For the purposes of preserving living and growing timber on Indian reservations and allotments other than the Menominee Indian Reservation in Wisconsin, and to educate Indians in the proper care of forests; for the conducting of experiments on Indian school or agency farms designed to test the possibilities of soil and climate in the cultivation of trees, grains, vegetables, cotton, and fruits, and for the employment of practical farmers and stockmen, in addition to the agency and school farmers now employed; for necessary traveling expenses of such farmers and stockmen and for furnishing necessary equipment and supplies for them; and for superintending and directing farming and stock raising among Indians, $315,000: *Provided*, That this appropriation shall be available for the expenses of administration of Indian forest lands from which timber is sold to the extent only that proceeds from the sales of timber from such lands are insufficient for that purpose: *Provided further*, That not to exceed $20,000 of the amount herein appropriated may be used to conduct experiments on Indian school or agency farms to test the possibilities of soil and climate in the cultivation of trees, cotton, grain, vegetables, and fruits: *Provided also*, That the amounts paid to matrons, foresters, farmers, physicians, nurses, and other hospital employees, and stockmen provided for in this act shall not be included within the limitations on salaries and compensation of employees contained in the act of August 24, 1912.

Mr. FREAR. Mr. Chairman, I move to strike out the last word. I wish simply to say that with regard to the physicians, matrons, and nurses—and I have met quite a number of them during the last year—they certainly are not receiving the amount of compensation that they ought to receive for the work that they are doing. I know doctors who are long-practicing doctors, very able men, who have gone out on reservations practically away from all civilization, as you might say, far out on reservations, who are receiving $1,800 a year in addition to a small amount for quarters; men who, I am satisfied, could make several times that amount if they were to leave the service. I believe that is one of the things Congress ought to do, to make an inquiry to show that not only the matrons, who are generally the wives of the farmers and different officials out there doing the work, but also real matrons, who are doing good medical work and are entitled to good pay. I have met them in their work and they are poorly paid for that work. The doctors and nurses are entitled to more compensation than they are receiving now under the law.

The CHAIRMAN. The pro forma amendment is withdrawn. The Clerk will read.

The Clerk read as follows:

For expenses incidental to the sale of timber, and for the expenses of administration of Indian forest lands from which such timber is sold to the extent that the proceeds of such sales are sufficient for that purpose, $200,000, reimbursable to the United States as provided in the act of February 14, 1920 (41 Stat. L. 415).

Mr. FREAR. Mr. Chairman, as to that item of $200,000, reimbursable to the United States, as provided in the act, the amount of timber that is being sold annually is about $2,500,000 worth, according to the hearings. The amount paid by the Government for supervision out of the Indian's own property is about 10 per cent of that, or $200,000, according to the figures that the chairman has in the hearings. I ask the chairman if he has any knowledge of the contracts, of the general timber contracts, that have been made, and how fast the timber is being cut off from the Indian reservations to-day?

Mr. CRAMTON. The estimated total value is about $130,000,000.

Mr. FREAR. I understand; and of that total about $27,000,000 is now under contract, which is over 20 per cent. That is in the hearings.

Mr. CRAMTON. With an annual income of something over $2,000,000. Now, what is the gentleman's further question?

Mr. FREAR. The question is, whether or not $200,000, which is nearly 10 per cent of the entire amount that the Government receives for the Indians, is not a large amount to charge for the supervision of timber contracts?

Mr. CRAMTON. Well, it has not impressed the committee that for the expense of supervision was an unduly high figure.

Mr. FREAR. Of course, the Indians pay that cost and not the Government.

Mr. CRAMTON. Certainly; and it is perfectly proper that the Indians should pay it. I have not gone into that question thoroughly, I will say to the gentleman, but it had not impressed me as an unduly high figure.

Mr. FREAR. The next question, which I think is a very important one, is this: One hundred and thirty million dollars is estimated to be the value of the timber belonging to these various tribes of Indians. I was through two of the reservations and that is the reason I am interested in ascertaining further facts on this proposition. The timber is being cut off very rapidly from the Indian land, and that timber, of course, is a part of the capital assets belonging to the tribes. Now, what is going to be the result, and how long will it be before the Indians will have all of that timber cut off if 20 per cent of it and over has already been been contracted for, and large mills are being erected throughout these Indian reservations?

Mr. CRAMTON. Well, the amount of the contracts is $27,000,000, as the gentleman has already stated, but I have no information as to the period to be covered in the execution of those contracts. However, if we were to assume that they were to cut timber at the rate they are cutting it at the present time it would be, of course, 65 years before the timber was all cut off; but we have no right to make that assumption.

Mr. FREAR. And then, of course, there would be no determination as to what would be left for the Indians. Now, one other statement. I traveled through the Apache Reservation, among others, and there they are employing 250 colored men to cut the timber, besides Mexicans, and very few Indians, we were informed. This timber is being cut off very rapidly and there is found one of the largest mills I have seen for a long time. What are the Indians getting out of that cutting of timber for themselves? Can the gentleman tell us?

Mr. CRAMTON. Well, they are getting the price of the timber less this approximately 10 per cent. I do not know of the situation there, but generally the Indians, if they are willing to work, are given the labor.

Mr. FREAR. Are the contracts subject to competitive bidding? Does the gentleman know about that?

Mr. CRAMTON. I assume they are. I think there are no contracts made without competitive bidding.

Mr. FREAR. This is a large contract to a Louisiana firm, as I understand, and that is the reason for the inquiry.

Mr. CRAMTON. The principal operations now, as the gentleman knows, are on the Colville Reservation, in Washington; the Warm Springs Reservation, in Oregon; the Klamath Reservation, in Oregon; the Fort Apache Reservation, in Arizona; and the Mescalero Reservation, in New Mexico. Then there are some other smaller operations.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn.

There was no objection.

Mr. WILLIAMSON. Mr. Chairman, I move to strike out the last two words. In the matter of cutting off these timberlands—which I regard as a very important matter—I am wondering whether or not, in removing this timber, the Indian Service is following practically the same method as is followed by the Forest Service, that is, blazing only what is deemed mature timber, so as to protect the young and growing timber as an investment for the future. I take it that in contracting for the sale of standing timber that provision is made to protect the future supply. My understanding is that such is the fact.

Mr. CRAMTON. I have not visited any of these operations except on the Flathead Reservation and it is my recollection that there they were making a selection as the gentleman suggests, and that they insist on that rather than to have all of the lands denuded.

Mr. WILLIAMSON. That is my own impression, namely, that the Indian forests are being cared for in the same manner as the United States Forest Service is caring for its own forests.

Mr. LEAVITT. Will the gentleman yield?

Mr. WILLIAMSON. Yes.

Mr. LEAVITT. The fact is that the cutting on the Indian lands is under the supervision of a former Forest Service man; he is a trained forester and the work is being carried on with the same purposes in view, that is, cutting off the ripe timber, giving proper protection against fire, and insuring a future supply.

Mr. WILLIAMSON. As I understand it, before any tree can be cut it must be blazed by the forestry officer in charge and that only such trees can be cut as are blazed by such officer?

Mr. LEAVITT. They are designated. Sometimes those to be cut are blazed, while in other instances those that are to be left are indicated.

Mr. HUDSON. Will the gentleman yield?

Mr. WILLIAMSON. Yes.

Mr. HUDSON. Did the gentleman from South Dakota mean to indicate that this work was done by the Forest Service?

Mr. WILLIAMSON. No; the Indian Service has its own foresters, and the statement made by the gentleman from Montana was that a former Forest Service man was in charge of this Indian work.

Mr. HUDSON. Will the gentleman yield further?

Mr. WILLIAMSON. I will yield to the gentleman.

Mr. HUDSON. The gentleman from Wisconsin [Mr. FREAR] intimated that the labor in these mills was negro labor. Can the gentleman tell the House whether the contracts are so framed that the Indians can have the labor if they wish it?

Mr. FREAR. I asked that same question, and I think it is a very pertinent question. They said there were 250 colored men working, outside of a number of Mexicans, and only a very limited number of Indians. I saw some Indian tepees not very far distant.

Mr. WILLIAMSON. I will say to the gentleman I can not answer that question. Perhaps the gentleman from Montana can.

Mr. LEAVITT. I can not answer the question definitely as to whether there is a provision of that kind in every contract, but the contractor is always confronted by a practical proposition. He bids under competitive conditions for the timber and must pay through the Government to the Indians a specified amount for the stumpage; that is, a specified amount per thousand feet. He can not have a requirement that will make him select labor that he must pay at a loss to himself. As a matter of general practice, I presume that down there the available labor is this negro and Mexican labor.

I know that some tribes of Indians are first-class laborers and other tribes of Indians have not had experience in manual labor. Purchasers do, however, give Indians employment frequently under contracts for cutting timber at so much a thousand feet.

Mr. FREAR. May I ask the gentleman whether there is competitive bidding in respect of these contracts?

Mr. LEAVITT. Yes.

Mr. FREAR. Then the next question is what payment for labor is likely to occur under the contracts.

The CHAIRMAN. The time of the gentleman from South Dakota has expired.

Mr. FREAR. I ask unanimous consent that the gentleman may have five additional minutes.

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

There was no objection.

Mr. FREAR. Here is a man employing labor, and he employs these negroes because he can get them very cheap, I presume, because they were brought from Louisiana way up there to New Mexico. As a restrictive proposition, what is there in the law so that the Indians can get what would be a reasonable compensation for labor? They would have to take, I suppose, whatever was offered; and if they can get colored labor and bring it up there from Louisiana cheaper, they have that privilege, have they not?

Mr. LEAVITT. I believe they have.

Mr. FREAR. There is no protection for the Indians who own the timber and who are living in that country.

Mr. LEAVITT. The Indian is the owner of the timber, and it is sold to the highest competitive and responsible bidder. Generally speaking, he is allowed to choose his labor and to get it under terms that will enable him to make a profit.

Mr. HUDSON. Will the gentleman yield there?

Mr. LEAVITT. Yes; if I have the floor.

Mr. HUDSON. It is not to be inferred he is paying this labor from Louisiana because he can get it cheaper. Probably he could get the Indian labor just as cheap if they could perform the labor or would perform the labor.

Mr. LEAVITT. I think that is true.

Mr. HUDSON. So that it is really a question of getting the labor rather than the wages that are paid?

Mr. LEAVITT. I do not know about this particular tribe of Indians, whether they will perform the labor or not. I know I was on an Indian reservation a few years ago where a rather well-to-do Indian farmer and stockman was having his hay put up. I was there for dinner. He had probably 8 or 10 men working for him and all of them were white men. I asked him why that was and why he did not employ his Indian neighbors around him. He told me that he could not do that and pay them the same wages he was paying the white men, because they were not experienced in that line of labor and did not like to do it.

Mr. FREAR. Here is the situation as it occurs to me, and I am just asking the gentleman for information, because I know he is familiar with these questions: Here is timber that is being cut off fairly rapidly which belongs to the Indians. One of the purposes we have in mind is to give the Indians employment as far as we can do so. We make a sale of this timber to these people in Louisiana. How important it may be that the sales should be made I do not know. They then proceed to sell the timber, presumably paying no more than they are obliged to pay, way out there several hundred miles from Louisiana and possibly 100 miles from the nearest railroad station, as I now remember it, and there is no provision by which the Indian can be assured he will have employment, although this is a very large Indian reservation. There is nothing in the present legislation that would assure the Indians of employment.

Mr. LEAVITT. I do not think there can be any law requiring their employment on the part of contractors. I will say that if it could be done with fairness to the contractor, every effort should be made to give the labor to the Indians, who are on the ground.

Mr. FREAR. I believe that is our purpose or our desire, at any rate.

Mr. CRAMTON. And the man who has a contract, as a commercial proposition, if the Indian can give him satisfactory labor as cheaply as he can get somebody else to do it, it stands to reason he is going to give him the work, because he is right on the ground.

Mr. FREAR. Sure—if he can bring up people from Louisiana and have them work for 50 cents a day. I understand that; but the question is whether or not that is an element that ought to be considered in making the contract.

The pro forma amendment was withdrawn.

The Clerk read as follows:

To meet possible emergencies, not exceeding $50,000 of the funds held by the United States in trust for the respective tribes of Indians interested and not exceeding $50,000 of the appropriations made by this act for timber operations in the Indian Service; in all, $100,000, is hereby made available for the suppression of forest fires on Indian reservations: *Provided*, That any diversions of appropriations made hereunder shall be reported to Congress in the annual Budget.

Mr. FREAR. Mr. Chairman, I move to strike out the last word. My only purpose is to inquire what diversion of funds is possible under provisions of this kind.

Mr. CRAMTON. The item provides for $50,000 appropriation of tribal funds for the suppression of forest fires, and authorizes the diversion of not more than $50,000 of other appropriations made in this act from the Treasury for the same purpose. So there is $100,000 made available, of which fund $50,000 is appropriated from tribal funds and $50,000 is diverted from other appropriations.

Mr. FREAR. I withdraw my pro forma amendment.

The Clerk read as follows:

For reimbursing Indians for livestock which may be hereafter destroyed on account of being infected with dourine or other contagious diseases, and for expenses in connection with the work of eradicating and preventing such diseases, to be expended under such rules and regulations as the Secretary of the Interior may prescribe, $30,000, to be immediately available.

Mr. FREAR. Mr. Chairman, I move to strike out the last word. I recollect in this investigation, or in the hearings, the chairman was asking about horses that are to be killed for canning purposes, which, of course, is a large item. He objected very naturally to the payment of $30 apiece for horses, and I believe he was wholly justified in that. What is to be done in order to carry out such work? The hearings do not mention it.

Mr. CRAMTON. I do not want the gentleman to confuse the development of the canning process with the eradication of disease of these infected animals.

Mr. FREAR. It is all, I understood, under the same item. I took it so from the hearings.

Mr. CRAMTON. This item has nothing to do with the killing of horses for canning. One of the great advantages to Indians has been that they have been able to sell for $5 apiece several thousand horses that are shipped to Illinois and canned for human food. But that has nothing to do with this. This is an item attempting to eradicate diseases from horses. Outside the Indian Reservation it has been pretty well eradicated. It now prevails to some extent on the Navajo Reservation, and we have been dribbling along with appropriations of $10,000 a year. It is a disease that spreads by contagion, and if we go on appropriating only $10,000 a year there is every prospect that we will have to spend that amount of money for a number of years to come. The work is to be carried on in cooperation with the Bureau of Animal Industry, and we have asked a statement from that bureau and the Bureau of Indian Affairs as to what is feasible to clean up this situation. We are assured that if they can have $50,000 they can go ahead now—$30,000 this year and $20,000 to follow it—and clean up the whole situation. So we have followed that recommendation, and the gentleman will find somewhere in the hearings an estimate to that effect. That is $10,000 above the Budget and $20,000 above the current year. We make it immediately available because it is needed this spring.

Mr. FREAR. What plan has the committee in mind as to these 100,000 horses that to-day are grazing on the reservation grass land?

Mr. CRAMTON. That is not in the hands of our committee and it is not in the hands of the Indian Bureau. The Indians, many of them are a good deal like white men, they do not always keep that which is advantageous to them. But if an Indian keeps a hundred horses where he only needs one we can not require him to kill them off.

Mr. FREAR. I understood there was to be some provision about the sale of horses by the Indians.

Mr. CRAMTON. No; what happened concerning that is this: Some concerns in Illinois went on the reservations and where they could get the consent of the Indians they bought up a large number of horses. I think they get them from two and a half to five dollars, depending on the weight. In the beginning the Indians were very much opposed to it, because, as I understand, an Indian's wealth is gauged by the number of horses that he owns. On some reservations they have changed their view and have been willing to sell. But that is not involved in this question.

This, however, is involved: You may say why is it necessary, if they have more horses than they need, why should we concern ourselves about diseases. We are the guardians and should protect their property, and we are also protecting the horses outside of the reservation that would eventually contract the disease.

Mr. LEAVITT. This money is also expended for the protection of other livestock—cattle and sheep.

Mr. FREAR. There is no question raised as to the merits of the appropriation.

Mr. LEAVITT. The removal of excess horses is also necessary for the cattle and sheep industry. It can not be done under an appropriation by Congress. The horses are private property. They have accumulated because the market for horses of that kind has been poor, and it presents a problem being met largely by the sale of large herds of those horses and shipping them out of the country for food.

Mr. FREAR. That was discussed by the gentleman from Michigan [Mr. CRAMTON] and I knew that he would be able to enlighten the committee.

Mr. HUDSON. Mr. Chairman, I move to strike out the last two words for the purpose of asking the chairman of the committee with reference to an item on page 21, line 14, of $175,000 to be used for the purchase of seeds, machinery, animals, and tools. Is that to be expended in harmony with what is known as the five-year program of the development among the Indians of agricultural pursuits?

Mr. CRAMTON. Yes and no. The five-year program is a program that originated among the Blackfeet by Mr. Campbell and has been successful and has spread to other reservations, being an effort to lead the Indians into agriculture. They join a chapter, with an agreement that they will plant so much corn that year. The second year of the program involves a little further planting, and so on, to the end of the five years. It is hoped by that time to have them launched into agriculture. It has had a good effect in that direction. This item works nicely with that, although it was in the law before Campbell started the five-year program. Its terms provide that if the Indian wants to engage in agriculture or stock raising, he may really borrow money out of this fund, have an advance, and buy the seed or stock for purposes approved by the authorities, and he has to repay it within five years. The history of it shows that they have repaid such advances remarkably well.

Mr. HUDSON. My purpose in asking the question was to bring out the fact that there might be a definite policy in reference to this continual appropriation for this purpose. Or is it just year by year handed out every year without regard to a program on the part of the Indian?

Mr. CRAMTON. Of course, it all dovetails in together, and it is in itself a definite program to help the Indian to help himself. It is one of the most helpful items in the bill. As I say, it was in operation before Mr. Campbell initiated what was called the five-year program, and it is being done on many reservations where the five-year program has not been attempted.

Mr. HUDSON. By way of illustration, an Indian farmer out of this fund is assisted and he proves his worth. He can then receive a larger assistance the next year, can he?

Mr. CRAMTON. Not necessarily. Of course, if an Indian shows that he is worthy, his credit is improved to that extent, I suppose, but it may be that one advance is all that he will need. We have been making those appropriations since 1912, and that was long before Campbell thought of his five-year plan. Out of $4,667,000 advanced, $3,512,581 has been repaid, and some of the rest is not due.

Mr. HUDSON. The gentleman is aware of the propaganda that the Government is not attempting to make the Indian self-supporting.

Mr. CRAMTON. Of course that is proposterous.

Mr. HUDSON. What I want to bring out is that this fund of $175,000 does not contribute to such a condition as that. On the contrary, it is to make him self-supporting and independent.

Mr. CRAMTON. In this whole bill of some $13,000,000 the effort is to use the money in a way to make the Indian self-supporting, to fit the Indian not to live forever in a tepee and blanket, the picturesque figure that some of the artists would like, to take his place as an American citizen. Of course there can be some argument about some of the items in this bill, but I think there can be no argument about this item, it has been so very helpful.

Mr. FREAR. That is the reason that the item was passed over without question. It certainly was in the direction of self-improvement, but with 200 tribes of Indians and this limited to $15,000, it would seem they could be taken care of throughout the country much faster if there was a distinctive constructive program. I have been over a number of those reservations and I saw there ought to be some help given to them.

Mr. LEAVITT. Will the gentleman yield?

Mr. HUDSON. Yes.

Mr. LEAVITT. I ask the gentleman from Wisconsin if he knows that the organization known as the Indian Protective Association of Montana passed a resolution opposing the five-year agricultural program that is supported by this item?

Mr. FREAR. No; I do not know who they are or that I ever heard of them.

Mr. LEAVITT. The gentleman met with several of them last summer at Livingston.

Mr. FREAR. I did not know what they were members of.

Mr. LEAVITT. In connection with John Collier. They had previously passed a resolution in opposition to this five-year agricultural program which the gentleman has just said is one of the constructive things.

Mr. FREAR. No; I did not say that. I said the $175,000 appropriation is for constructive work. I know nothing about the five-year program.

Mr. LEAVITT. That is exactly what I said, since it is an item which supports the five-year program, which is simply carrying out a uniform, definite program.

Mr. FREAR. Confined to the five-year program?

Mr. LEAVITT. No. The five-year program is simply one definite plan along lines of improving the Indians, particularly to make them self-supporting, by teaching them farming, stock raising, and things of that kind.

Mr. FREAR. Can the gentleman say what proportion of the $175,000 is used for the five-year program?

Mr. LEAVITT. It was started, as the chairman of the committee said, on the Blackfoot Reservation. Then it was undertaken on other reservations, and some are now in the second and third year.

Mr. FREAR. So under this plan even the $15,000 a year is not——

Mr. LEAVITT. I can not give the number of reservations which have now adopted it, but several in Dakota, and many others have taken it up, such as the Fort Peck Indians, Montana. It is also started among the Cheyennes, and is being pushed among many Indians.

Mr. FREAR. This appropriation is for general welfare of the Indians; constructive work?

Mr. LEAVITT. Yes; that is true. I feel some opposed to this; have no reason in mind except they fear some men like the gentleman from Wisconsin met at Livingston last summer——

Mr. FREAR. They did not discuss that question with me at all.

Mr. LEAVITT. Just one sentence and I will sit down. My impression is they feel it will make the Indians self-supporting and able to take care of themselves and whenever that condition is reached the professional Indians, who make a living off the rest of the Indians, will have no field to cultivate. Of course some also are honest in feeling the program should be different.

Mr. HUDSON. Mr. Chairman, my reason for calling attention to this was to bring before the House the fact that out of this fund, this five-year program, which has so commended itself to those having charge of the development of the Indians, is appropriated. I think it is one of the most helpful items in the bill.

Mr. FREAR. Mr. Chairman, I rise in opposition to the amendment, for the purpose of saying to the chairman of the Indian Affairs Committee that while I did discuss with some gentlemen the question of the threatened starvation of Indians, particularly on the Peck Reservation and other places, I did not talk with regard to the five-year program. Now, with regard to the question of the professional Indians that they will lose their employment when the five-year program is made successful. I would not want to think that. I believe they have higher or better reasons. I believe this, whether the Indians have $175,000 for general work, or only $15,000 or $5,000 for the five-year program, is immaterial. If it is appropriated they ought to have it.

Mr. CRAMTON. If the gentleman will yield. The gentleman will note this item of $175,000 is a reimbursable item and actually reimbursed, and it is not the sum total of our effort in industrial assistance. The preceding item of $315,000 is for direction and encouragement in developing along the lines of agriculture and stock raising, and so forth, but it is not reimbursable. That comes out of the Treasury of the United States.

Mr. KETCHAM. Will the gentleman yield to me for a moment?

Mr. CRAMTON. Certainly.

Mr. KETCHAM. I have asked that moment to request the chairman of the subcommittee to make a statement concerning the item on page 22, beginning with the proviso on line 4—

*Provided further*, That the Secretary of the Interior is hereby authorized, in his discretion and under such rules and regulations as he may prescribe, to make advances from this appropriation to old, disabled, or indigent Indian allottees.

Can the gentleman state what has been the nature of that particular portion of the fund during the years? Has it been developing and increasing, or diminishing?

Mr. CRAMTON. That is a new provision that appeared in the bill first last year, due to a suggestion that Commissioner Burke made to me while we were out on one of the reservations. An old Indian, for example, has a piece of land, but he has got beyond the age where he can do anything with it, and under this item the bureau is authorized to advance the money to him. He can have the good of it while he lives. When he is dead and the land is sold the money is reimbursed to the Government.

I think as yet very little, if any, use of it has been made. There was some question of the power—the language was in a little doubt in the previous year—and there was some question as to whether this provision was subject to the provisions requiring reimbursement to come within five years. It was not the purpose to have the reimbursement made in five years, and it was desirable to change the language so that it could be understood that the reimbursement was not to be expected in five years.

Mr. KETCHAM. Of course the gentleman will understand that that item will have to be watched with a considerable degree of care to determine when a man becomes old and disabled?

Mr. CRAMTON. Of course it will be watched. The sum total, of course, that could be advanced will be $175,000. But the committee is so interested in the proper use of this money that if the advances under the last proviso reach any large figure a limitation would be placed on the expenditure. On the other hand, the Bureau of Indian Affairs has always shown such intense interest in the use of this money and have handled it so wisely that reimbursement has come in large degree. I do not think they will abuse that proviso.

The CHAIRMAN. The pro forma amendment is withdrawn.

Mr. FREAR. May I ask unanimous consent to proceed for just one moment, to ask what will be done with the old Indians who have no property? We run across those occasionally.

Mr. CRAMTON. They are being supported directly out of the Treasury.

Mr. FREAR. Direct support and civilization?

Mr. CRAMTON. Yes; under general support and civilization. There was a time when thousands of Indians received rations. Now the only ones who receive rations are those who are indigent and old and helpless. I remember on one occasion I was making a speech to the Indians up on the Sioux Reservation. There are no finer Indians physically than the Sioux, but there have been no Indians more injured by a policy of indiscriminate ration-giving than the Sioux. I remember that their form of applause is by saying "How! How!" And I remember that my speech was received in entire silence when I stated to them that the time had come when any Indians who are able to work should not expect any rations. At one place in the speech one Indian did say "How!" and it nearly broke up the meeting because applause was not looked on as good form.

Mr. WEFALD. How much does it cost to support an old and disabled Indian?

Mr. CRAMTON. Not much. We have at Canton, S. Dak., an insane ayslum for Indians with an attendance, as I recall, of 100, and our appropriation is $40,000. So there is $400 per capita. These Indians can hardly be called insane, but they are helpless Indians needing care. That $400 a year is, I think, the top figure that we spend anywhere. It runs down to only a few dollars on some reservations by giving them some flour and help.

Mr. WEFALD. In order for an old Indian to be taken care of, must he be declared insane?

Mr. CRAMTON. Certainly not. I just spoke of those Indians in South Dakota who were in an insane asylum to illustrate what is done.

Mr. WEFALD. The gentleman does not know what it costs to support an old Indian who is not in one of these institutions? Does it cost $30 a year?

Mr. CRAMTON. That, no doubt, takes care of some cases. Some cases probably require more. I could not give the gentleman the exact figure.

Mr. WEFALD. It does not cost as much as to support an old horse?

Mr. CRAMTON. Well, I do not think they spend that much in taking care of horses on the Indian reservations.

Mr. LEAVITT. Mr. Chairman, will the gentleman yield for a further question?

Mr. CRAMTON. Certainly.

Mr. LEAVITT. Is it not true that the rations issued would be sufficient if the relatives of the old and indigent Indians did not come in and eat up a large part of what is given them? I have been told that by Indians on all reservations that I have visited.

Mr. CRAMTON. That is, of course, the difficulty, that the relatives will come in and eat up everything that is given the old man, and the authorities have to be careful for that reason.

Mr. WEFALD. It speaks of their great heart, does it not?

Mr. CRAMTON. It speaks well of the great heart of the indigent Indian, but it does not speak so well for the young bloods who come in and eat up what is given to him.

The CHAIRMAN. The pro forma amendment is withdrawn. The Clerk will read.

The Clerk read as follows:

For necessary miscellaneous expenses incident to the general administration of Indian irrigation projects, including salaries of not to exceed five supervising engineers, for pay of one chief irrigation engineer, one assistant chief irrigation engineer, one superintendent of irrigation competent to pass upon water rights, one field cost accountant, and for traveling and incidental expenses of officials and employees of the Indian irrigation service, $75,000.

Mr. ARENTZ. Mr. Chairman, I rise for the purpose of asking a question of the chairman. Referring to the paragraph beginning on line 24 of page 24 and running to line 26 of page 25, does this include the salary of the engineering staff located here in Washington?

Mr. CRAMTON. No. This is purely the field staff, as I understand it.

Mr. ARENTZ. What is Mr. Reed's title? Is he not the chief irrigation engineer?

Mr. CRAMTON. That is my understanding.

Mr. ARENTZ. I just wanted to know whether this was in Washington or some other place.

Mr. CRAMTON. I think there is nothing in Washington under this item.

Mr. ARENTZ. The reason I ask that is because the irrigation engineers that were sent to the Walker River Reservation to investigate the sources of water supply included Mr. Reed as the chief, and I wondered whether there was some one else in the field other than Mr. Reed who examined into such things as proposed in the Walker River bill.

Mr. CRAMTON. Of course, Mr. Reed is the head of the service, but this paragraph provides nothing for services in the District of Columbia.

Mr. ARENTZ. Well, if it did include something in the District of Columbia it would say so in this paragraph.

Mr. CRAMTON. It should say so; yes. You see, there are different districts. We have five irrigation districts.

Mr. ARENTZ. Covering a great big territory in Nevada, New Mexico, and Arizona.

Mr. CRAMTON. Yes. I will correct that if I am wrong, but it is my understanding that no part of this is available in the District of Columbia.

Mr. HUDSON. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman of the committee this question: Are these irrigation projects administered by the Bureau of Indian Affairs or by the Reclamation Service?

Mr. CRAMTON. They are all now administered by the Bureau of Indian Affairs. A few years ago the Reclamation Service, as it was called at that time, had charge of certain projects. They had charge of the Flathead project, if I remember correctly. I know they had charge of several projects, but we transferred that jurisdiction to the Indian Service and saved some money by doing so.

Mr. HUDSON. That was the question I had in mind. I wish the chairman of this subcommittee might in just a word or two explain to the committee and the House how you can save expense to the Government by duplicating agencies which do the same line of work.

Mr. CRAMTON. Well, the gentleman makes an assumption that the facts do not bear out.

Mr. HUDSON. Well, let us assume that.

Mr. CRAMTON. I never want to assume something that is not so. The situation is this: On the projects I speak of the Indian Service has an organization; they have the superintendent of the agency; they have an organization; and they have their headquarters. Now, if the Reclamation Service should come on that project to operate and maintain an irrigation project they would have to have their officials there also, and so by eliminating the one bureau we leave just one organization there, and, as I say, in fact, did save some money. Now, theoretically, when it comes to the construction of irrigation projects, whether those irrigation projects are for the use of the Indians or of whites, we ought to have one construction organization, which, of course, would in that event be the Reclamation Service; and I will say to the gentleman that I

have felt very strongly about that at times and have been almost prepared to take some steps in that direction, but the trouble has been that just at the time when I felt most strongly about it, the Reclamation Service has been all shot to pieces and disorganized and it would have been a crime to have given them any more responsibility than they already had.

Mr. HUDSON. Then, the gentleman does not think that under this present system there is any duplication of engineers or other supervisors or any duplication of machinery that could be consolidated and handled as one?

Mr. CRAMTON. The degree to which you could say there is any duplication is extremely limited.

Mr. HUDSON. The gentleman realizes that the President and the administration want economy?

Mr. CRAMTON. Yes.

Mr. HUDSON. And by the elimination of duplication is not this a place to begin?

Mr. CRAMTON. The gentleman, I think, would have great trouble in showing to the committee where one position could be saved. The gentleman must remember that the Reclamation Service, in the main, is charged with the construction of irrigation projects. They are endeavoring now to get away from the handling of the operation and maintenance by turning that over, wherever possible, to the water users. In the Indian irrigation service we have been trying to get away from the construction of new projects because the showing has not been satisfactory and the use that the Indians have made generally of irrigation works has not been satisfactory. There are, in fact, now only two construction programs under way with reference to the Indian Service, one on the Flathead Reservation and one, the San Carlos, in Arizona; and I am satisfied that there would have been no economy whatever by intrusting the construction of those projects to the Reclamation Service. I think the contrary would be true.

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

Mr. LEAVITT. Mr. Chairman, I move to strike out the last two words. I would like to ask the chairman a question or two. Is it not true that on a number of the Indian reservations there are certain irrigation projects that are very unsuccessful because the Indians themselves are not yet trained to be irrigators, and because the uncertainty as to title and other difficulties in connection with development have kept white farmers from making a success on them? Thus the Government has considerable money, in some cases Indian money, that has been invested without any possibility of return under present conditions.

Mr. CRAMTON. May I first say to the gentleman from Nevada [Mr. ARENTZ] that I find I was in error; that Mr. Reed is carried in the item for irrigation as well as those five district engineers. Now, answering the gentleman from Montana, generally speaking, it is true that the Federal money which has been invested is not paying the return it ought to. The gentleman just mentioned the possibility of starvation on the Fort Peck Reservation.

Mr. LEAVITT. Yes. Those Indians were just given a per capita payment of $50.

Mr. CRAMTON. On the Fort Peck Reservation, for instance, there is an irrigation system; there is water available for thousands of acres unused, land that will produce sugar beets that will make a people prosperous and happy, but they have not progressed to the stage where they care to utilize the opportunities that surround them.

Mr. ARENTZ. Will the gentleman yield?

Mr. LEAVITT. I yield.

Mr. ARENTZ. Would the chairman of the Committee on Indian Affairs tell me, please, how much, if at all, the policy of the Indian Bureau is influenced by the Indian Rights Association and the Association for the Protection of Indians?

Mr. LEAVITT. I can not tell the gentleman that.

Mr. ARENTZ. Do not those two associations have some influence with the department or the bureau?

Mr. LEAVITT. I think it is perfectly proper for a department or a committee or any Member of Congress to listen to any individual or any association.

Mr. ARENTZ. I do, too.

Mr. LEAVITT. And secure from that individual or association any information available. The only difficulty is that we do not always use our own judgment after we get the information. We take it that because some one assumes to speak in the name of the Indians that his statement is necessarily true, and we may thereupon take steps that are to the detriment of the Indians in the hope that we are doing something for their benefit.

Mr. ARENTZ. The gentleman from Montana, I know, would be the last man in Congress to say that a white man should vote if he could not read or write the English language or an Indian who could not even understand words in the Indian language spoken to him about civil affairs; yet this Congress has allowed a vote to Indians throughout the West who could not understand a civic question if it was put down in all the Indian languages of the world; and you go into a territory where Indians live and speak about things that they should know about and find that this Indian Rights Association apparently has told them various things, and they will say, "You are responsible for no rain coming, consequently our crops are all gone; we no vote for you."

Mr. CRAMTON. Is not that a sufficient reason? [Laughter.]

Mr. FREAR. Will the gentleman yield?

Mr. ARENTZ. Yes.

Mr. LEAVITT. I have the floor.

Mr. FREAR. Can Congress in any way legislate so as to determine the voting capacity of the Indians in the gentleman's State?

Mr. ARENTZ. If the Indian voters had to come under the provisions of the law with respect to literacy, then we could get somewhere; but under the present status of things, any Indian can vote.

Mr. FREAR. I was just going to say that it is entirely within the discretion of the legislature to set a certain standard for every voter and that standard would determine who is entitled to vote, and for that reason——

The CHAIRMAN. The time of the gentleman has expired.

Mr. LEAVITT. Mr. Chairman, I ask unanimous consent to proceed for five additional minutes because the gentleman has taken up all my time.

The CHAIRMAN. The gentleman from Montana asks unanimous consent to proceed for five additional minutes. Is there objection?

There was no objection.

Mr. CRAMTON. If the gentleman will permit, Mr. Chairman, I ask unanimous consent that all debate on the pending paragraph and all amendments thereto close in seven minutes.

The CHAIRMAN. The gentleman from Montana asks unanimous consent that all debate on the pending paragraph and all amendments thereto close in seven minutes. Is there objection?

There was no objection.

Mr. LEAVITT. Mr. Chairman, of course, the different States have the power to provide any sort of restriction as to a literacy test they may wish. Montana has no such test, and the Indians in my State very generally vote, but the point I rose particularly to discuss is with respect to the reclamation areas on the Indian reservations. They were practically all started without consultation with the Indians many years ago when such work was all done under the Reclamation Service. Of recent years they have been very largely taken over in an incomplete form by the Indian Bureau, but without the very serious question of settlement by people who are trained as irrigators being solved. So they stand on many of the Indian reservations as the most difficult of problems, and in some cases like a millstone around the neck of the Indian.

I have in mind visiting last summer the Cheyenne Indians on the Tongue River Indian Reservation. I found there a canal that had been constructed many years ago, and, of course, the Indians, very few of them, had progressed in agriculture to a point where they could irrigate. The situation now is that flumes in two or three places have rotted and fallen down; the canal is absolutely of no use to the Indians; but still the charge is reimbursable and it stands against those Indians in such a way that it puts them in the situation one of us would occupy if we had greatly exhausted our credit at the bank and still had to go ahead and make our way in a successful business. The Indians on this particular reservation are just now being allotted lands. The tribal roll has just been completed and they will be given their allotments next year. When it comes to their securing credit under this $175,000 item, this reimbursable fund, for farm machinery and for livestock, and so on, there is hanging over them that great reimbursable debt that was not put there in a way that has resulted in their benefit.

This is a question which should be studied by a fact-finding commission among all the Indian reservations in the same way that the situation among the white people on the reclamation projects was studied, and there should be brought into this Congress a report as to what should be done. In many cases, such as the one I have mentioned, there should be a forgiving of that charge, because the expenditure was made when they were not developed to a point where it was of any use on recla-

mation works, and yet it hangs over them and retards their development now that they have come to the point where they can be made self-supporting. The same situation in a lesser degree exists on some other Indian reservations. The lands under the reclamation projects on some of these Indian reservations are involved as to their titles. There are heirs to be considered, some of them minors, and the land in some cases is not in the possession of Indians who could irrigate and make a success of it, and still these reclamation projects stand in an incomplete form, without it being possible for anyone to get the benefit of them and pay back to the Government what the Government has invested, or at least a legitimate part of it. It is one of the problems that I feel should be taken up by a fact-finding commission, and I am giving this as a warning that I shall introduce a bill to create such a commission.

Mr. FREAR. Mr. Chairman, I heartily agree with what the gentleman from Montana has said. I was on the Fort Hill Reservation and I do not remember the exact amount, but a very large amount of money was wasted over an irrigation project, and they are now attempting to put in an entirely different project to take care of that land. The Indians who are there ought not to be chargeable with that.

Down on a reservation near Phoenix, Ariz., I discovered they had practically no water. A large amount of money has been spent and about all they are doing there is to get water from wells. They have in view a proposition that they are going to try, but the present irrigation project is practically wasted, and those Indians ought not to be obliged to pay for it, and it seems to me that the proposition ought to be considered by the Indian Committee of the House.

Mr. CRAMTON. The present expenditure has been for the creation of the canal that brings the flow of the river to the dam. The bill carries a continuation of the Coolidge Dam, which means storage, and when stored is available for the canals.

Mr. FREAR. The supply of water they originally expected to have has vanished; the wells are incapable of supplying the water and the new project, perhaps, will supply water to a certain extent, but, as I say, a great deal of that project has been wasted.

The Clerk read as follows:

For continuing construction of the Coolidge Dam across the Canyon of the Gila River near San Carlos, Ariz., as authorized by the act of June 7, 1924 (43 Stat. L. pp. 475 and 476), and under the terms and conditions of, and reimbursable as provided in said act, $750,000: *Provided*, That the unexpended balance of the appropriations for this purpose for the fiscal year 1927 shall remain available for the fiscal year 1928.

Mr. HAYDEN. Mr. Chairman, I offer the following amendment:

The Clerk read as follows:

Amend on page 26, line 25, by inserting the following: "*Provided further*, That consulting engineers may be employed by the Secretary of the Interior in the manner and under the terms provided in the act of March 18, 1926 (Public law No. 50), for advice relating to the construction of said dam."

Mr. HAYDEN. Mr. Chairman, as the chairman of the subcommittee knows, this dam is to be of the multiple-dome type. No construction of that type has been had before, and it is necessary to pass a special act authorizing the consulting engineers to examine the plans and specifications of that dam. This leads the construction in that type of dam and it is thought it will save about a million dollars. We did not know whether it was safe or not, but the consulting engineers checked it up and decided that it was safe.

Now, the engineers say that inasmuch as this is new construction that when the bed of the river is stripped to put in the dam and during the construction before it is completed they would like to have the benefit of the advice of the engineers along the same line. It will not cost a large amount of money and I think it would be wise to give them this authority.

Mr. CRAMTON. Mr. Chairman, under the assurance that this plan will not involve a large expenditure I have no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona.

The question was taken, and the amendment was agreed to.

The Clerk, continuing the reading of the bill, read to the close of line 8, page 30.

Mr. HUDSON. Mr. Chairman, I would like to ask the chairman of the committee if it is possible to give us any information as to the total amount involved in the Indian irrigation and reclamation project.

Mr. CRAMTON. What does the gentleman mean, the total amount spent for construction?

Mr. HUDSON. The amount spent and contracts authorized.

Mr. CRAMTON. The present construction program involves only two important items—the Flathead, upon which we have already spent about $5,000,000. The prospects of its return have been extremely weak. Under the program worked out by the committee last year and which is the occasion of the reappropriation a total further expenditure would probably be a million and a half or $2,000,000 in the future.

The immediate expenditure would be not exceeding about $1,000,000. The San Carlos will involve about three and a half million dollars additional after the appropriation carried in this bill. They expected to have that reservoir completed by the 1st of July, 1929. So far as the other projects throughout the bill are concerned, there is no great amount of construction proposed.

Mr. HUDSON. These two projects are sums that must be reimbursed by the Indians on these reservations?

Mr. CRAMTON. By the landowners benefiting.

Mr. HUDSON. Can the gentleman state about how much now is chargeable for reimbursement against those Indian lands?

Mr. CRAMTON. I could not offhand. It is a good many million dollars.

Mr. HUDSON. It is a great many million dollars?

Mr. CRAMTON. Yes; my recollection is that, in the hearings a year ago, that was all assembled, but I have not it in mind.

Mr. HUDSON. What is the effect upon the Indian allottees in these reservations after the construction of these projects? Is it not in a large measure really butchering them and taking from them their lands to meet these costs?

Mr. CRAMTON. Oh, no; the situation varies. Some of the Indians are agriculturists, like the Pimas, who have been brought very low financially by the fact that water has been diverted by users above them. Fields which they formerly cultivated are now barren wastes. That will be corrected as soon as this program is carried out. That I have referred to. Some other Indians, for whom important projects were initiated in the Senate a number of years ago without any preliminary investigation or consultation, were not agriculturists or irrigationists. They did not make use of the water. There is a great deal involved in the question. I do not want to go into it too extensively, but I want to suggest this one thing, that even though the Indians do not immediately make use of the water, do not make use of the irrigation facilities afforded them, it some time will have been proven wisdom to have erected the works and claimed the water, because otherwise, by the time those Indians will have developed to be agriculturists and irrigationists, there would be a possibility that the water rights would have been dissipated by others. So far as butchering the Indians of their lands is concerned, there is no such situation. For instance, on the Flathead Reservation there is an actual attempt by some very selfish individuals who desire to exploit those Indians to array them in opposition to this program. This program is taking no money out of the pockets of the Indians. It is putting a charge on the books against them, but that charge is not to be collected until the lands eventually are sold, and when those lands are sold they will have appreciated in value far more than the charge for irrigation.

Mr. HUDSON. That is possible. Is not this program merely the setting up by the Government of a plan of remitting all these charges in order for the Indians in a large measure to still possess the lands?

Mr. CRAMTON. There is nothing of that kind. The charges are not bearing interest, and in the main the charges are represented by an increase in value of the land greater than the charges. There is no attempt to collect the money now and there is going to be no occasion for remission of the great bulk of the charges.

Mr. HUDSON. We have had to do that in other reclamation projects.

Mr. CRAMTON. We would not have needed to do that in those cases if the department had not been so active about a fact-finding commission. As a matter of fact that fact-finding commission on reclamation was a fault-finding commission. It really went out and invited these different projects to come in and state their grievances. I know of cases where they told the people on the project that they ought to file a complaint. If you appoint a committee of that disposition you can make quite a case for the Indians, too.

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

Mr. HUDSON. Yes.

Mr. LEAVITT. The chairman stated that there was a necessity of advancing to these irrigation projects, in order to hold the water rights for the Indians. My understanding is that they have a prior right to such water as is necessary for the adequate development of their own land before anyone on the outside can acquire that right.

Mr. CRAMTON. That was the holding of the Supreme Court of the United States in the Winter case, but not everyone feels certain that that will always remain as the law. There is some difference of opinion about it, while I adhere fully to it.

Mr. LEAVITT. There is no reason for finding any fault with what has been done. It is simply a case of finding out what the situation is and what ought to be done in those cases where the situation is not satisfactory. Those situations do exist.

Mr. CRAMTON. Mr. Chairman, in further response to the gentleman from Michigan [Mr. HUDSON], if he will look at the hearings on the 1926 Interior Department bill, two years ago, at page 990, he will find a table covering the whole question.

Mr. HUDSON. I thank the gentleman.

The Clerk read as follows:

EDUCATION

For the support of Indian day and industrial schools not otherwise provided for, and other educational and industrial purposes in connection therewith, $2,429,700: *Provided*, That not to exceed $10,000 of this appropriation may be used for the support and education of deaf and dumb or blind or mentally deficient Indian children: *Provided further*, That $3,500 of this appropriation may be used for the education and civilization of the Alabama and Coushatta Indians in Texas: *Provided further*, That not more than $20,000 of the above appropriation may be used for the education of the full-blood Choctaw Indians of Mississippi by establishing, equipping, and maintaining day schools, including the purchase of land and the construction of necessary buildings and their equipment, and for the tuition of full-blood Mississippi Choctaw Indian children enrolled in the public schools: *Provided further*, That all reservation and nonreservation boarding schools with an average attendance of less than 45 and 80 pupils, respectively, shall be discontinued on or before the beginning of the fiscal year 1928. The pupils in schools so discontinued shall be transferred first, if possible, to Indian day schools or State public schools; second, to adjacent reservation or nonreservation boarding schools, to the limit of the capacity of said schools: *Provided further*, That all day schools with an average attendance of less than eight shall be discontinued on or before the beginning of the fiscal year 1928: *Provided further*, That all moneys appropriated for any school discontinued pursuant to this act or for other cause shall be returned immediately to the Treasury of the United States: *Provided further*, That not more than $350,000 of the amount herein appropriated may be expended for the tuition of Indian children enrolled in the public schools under such rules and regulations as the Secretary of the Interior may prescribe, but formal contracts shall not be required for compliance with section 3744 of the Revised Statutes, for payment of tuition of Indian children in public schools or of Indian children in schools for the deaf and dumb, blind, or mentally deficient: *Provided further*, That no part of this appropriation shall be used for the support of Indian day and industrial schools where specific appropriation is made.

Mr. CRAMTON. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 36, line 4, after the word "required" insert a comma.

The question was taken, and the amendment was agreed to.

Mr. CHINDBLOM. Mr. Chairman, I move to strike out the last word for the purpose of obtaining some information if I may. I find at the end of this paragraph there is a proviso that no part of this appropriation shall be used for the support of Indian day and industrial schools where specific appropriation is made. I would like to ask the chairman of the committee what is the rule in regard to making specific appropriations? Some schools get considerable appropriations, and others have to be satisfied with what they get out of the lump-sum appropriation.

Mr. CRAMTON. The practice is in this general lump-sum appropriation to take care of all the day schools and the reservation boarding schools and the tuition in public and other schools. Then there are a number of other nonreservation boarding schools, and these nonreservation boarding schools are appropriated for individually.

Mr. CHINDBLOM. Has it been the history of these cases that certain schools get specific appropriations from time to time as some interest may be aroused in them?

Mr. CRAMTON. I do not know what ancient history was of the schools to which the gentleman has called attention, and what may have been the condition when that was necessary. The purpose is very evident that when a special appropriation is made for schools they are not supposed to convey any general fund for something additional, but at the present time there are no day schools receiving specific appropriations in the act, nothing except nonreservation boarding schools.

Mr. CHINDBLOM. One other question with regards to the needs of specific institutions and schools. I presume the report of such matters is made to the Committee on Appropriations by the bureau, and the committee does not attempt to make any independent investigation of the needs of individual schools?

Mr. CRAMTON. Well, the committee does. When the opportunity has afforded, the committee has visited various activities in the field. I have visited probably a majority at least of these nonreservation boarding schools. Some of them are quite large institutions, running as high as 950 pupils in a school, but, of course, we do not each year go to them. We have in all these matters to be governed in a large degree by information given by the department.

Mr. CHINDBLOM. I withdraw the pro forma amendment.

The Clerk read as follows:

The Secretary of the Interior is hereby authorized to continue during the ensuing fiscal year the tribal and other schools among the Choctaw, Chickasaw, Creek, and Seminole Tribes from the tribal funds of those nations, within his discretion and under such rules and regulations as he may prescribe, and to expend such funds available for school purposes under existing law for such repairs, improvements, or new buildings as he may deem essential for the proper conduct of the several schools of said tribes.

Mr. McKEOWN. Mr. Chairman, I move to strike out the last word. I call the attention of the chairman to the fact that the school in the Seminole Tribe had the misfortune again to lose a barn. The insurance company at first indicated they would replace the barn instead of paying the insurance, but after trying to deal with them for a long time the insurance company finally paid the insurance to the Treasury, and I was wondering if there was any authority or provision under this section that would authorize them to rebuild that barn, which is a very necessary thing at this school?

Mr. CRAMTON. The gentleman is probably familiar with the authorization the bill carries, that in emergencies the Secretary of the Interior may order the replacing of a building destroyed by fire by transfer of money from some appropriation in the bill for the last year. Of course, this is for cases of real emergency. I have not any doubt if such an emergency is shown and the gentleman takes it up through the bureau and the Budget that a supplemental estimate will come in one of the deficiency bills, and the needful thing would be done. But the gentleman would understand the committee would be very reluctant to offer an amendment without an opportunity to go into the circumstances of the case.

Mr. McKEOWN. Of course, the gentleman from Michigan realizes the enormous amount of work that it would require to make all of this Budget inquiry and secure approval, and it is a matter where the money now is in the Treasury of the United States, put there by the insurance company, and if it does not go in this bill——

Mr. CRAMTON. Has the gentleman taken up the matter with the Indian Bureau with a view of having an estimate come to Congress?

Mr. McKEOWN. I will say to the gentleman from Michigan that yesterday I received a letter from the superintendent, a copy of which was sent to the bureau.

Mr. CRAMTON. I know the gentleman's zeal and he is right on the job, but there will be a deficiency bill coming through in a short time, and I would suggest to the gentleman he present the matter to the bureau with a view to its consideration by that bureau.

Mr. McKEOWN. I will state to the gentleman that heretofore I had an opportunity to present the matter; but I will not press the matter if the gentleman thinks it can be taken care of and it ought to be taken care of as soon as possible.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Wahpeton, N. Dak.: For 225 pupils, $50,625; for pay of superintendent, drayage, and general repairs and improvements, $10,000; in all, $60,625.

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

The CHAIRMAN. The gentleman from North Dakota offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BURTNESS: Page 41, line 4, strike out "225 pupils" and insert in lieu thereof "235 pupils, $52,875."

Mr. BURTNESS. Mr. Chairman and gentlemen of the committee, the only purpose of the amendment, as you will note,

is to increase the appropriation so that the basis thereof is to increase the number of pupils from 225 to 235. It adds $2,250 to the amount carried or $225 for each of 10 more pupils. I realize, of course, the difficulty that the office of Indian Affairs, the Bureau of the Budget, and the Committee on Appropriations always have in treating all of the Indian schools as fairly as possible. This school at Wahpeton, N. Dak., had during the month of October an average attendance of 233 pupils. You will note that provision is made upon the basis of 225 pupils. I find from the hearings that during the entire school year, this past year, the average attendance was 227, or two more than the number that is appropriated for in this bill for the next fiscal year.

There is no question but that there is a greater demand for attendance at this school than the plant is able to take care of. It also does what perhaps most of us would call junior high-school work in addition to the work that is usually done at Indian boarding schools. I do not know exactly what the policy of the committee is with reference to appropriating for the exact number of pupils that are present in any one school year, but I have checked through the hearings upon these boarding schools, and I find this: That in the case of 18 schools a larger appropriation is provided than the per pupil item of $225 based upon the average attendance, while in nine of them the appropriation is for less than the average attendance for the preceding year. I have a list of them here, setting out exactly what the facts are in that respect.

All that I am asking for in this case is that up there in the northern country, where the cost of running a school is perhaps higher than in many places, we should place this particular school, at least, on a parity with those schools which do receive an appropriation of $225 or more for the average attendance during the entire year. You will note this, that I have asked for an amount based on only two more pupils than the average attendance in October of this year.

At this particular school there is a considerable demand for new equipment, and many minor improvements are needed, and while $2,250 seems very little and scarcely worth the time of this committee in giving it consideration, yet the fact is that $2,250 additional for a school of that kind, with 235 pupils, means a great deal for them and would make it perhaps possible to put in some small much-needed improvements, as possibly a small kitchen in the hospital that is now being maintained in the school, because now it is necessary to carry food to the hospital from the girls' dormitory across the campus. Possibly by this increase some other minor accommodations for the school might be provided.

I sincerely hope that the chairman of the committee in charge of the bill will consent to this amendment. I notice in the hearings that he very graciously added 10 students to the school at Bismarck, in our State. That is very well; but even with that we are still getting less in our State for our average attendance than the schools in Arizona, California, Michigan, Minnesota, Oklahoma, and possibly one or two other States.

The CHAIRMAN. The time of the gentleman from North Dakota has expired.

Mr. CRAMTON. Mr. Chairman, the law provides the limit of the per capita cost at these schools. The maximum per capita is $250 if the attendance is less than 200, and if the attendance is over 200 it is $225. The school at Bismarck gets $250 per capita because the attendance is only 125. It comes within that law. The school at Wahpeton under the law must be given a limit of $225.

The policy of the committee has been not to overrun the actual attendance at these schools. We can not calculate down as closely as 1 or 2, or even 8 or 10, of these pupils. At Wahpeton their attendance has been gradually increasing. Last year there was an average attendance of 227, and at the present time it is 233. So there was an increase in the bill from 220 to 225 pupils, which is approximately the actual attendance at the present moment, and it is as near as we generally come. For instance, over at Chemawa they had an actual attendance of 986 in October. They have not accommodations for 986, and we did not give an appropriation for 986. The gentleman's schools have been very well taken care of in this bill. He certainly has nothing to complain of as compared with other schools. Many of the schools here will have an average attendance of 8 or 10 or 15 more than the number fixed. I hope the amendment of the gentleman will not prevail.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from North Dakota.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Sequoyah Orphan Training School, near Tahlequah, Okla.: For 275 orphan Indian children of the State of Oklahoma belonging to the restricted class, to be conducted as an industrial school under the direction of the Secretary of the Interior, $61,875; for pay of superintendent, drayage, and general repairs and improvements, $10,000; in all, $71,875.

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

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Oklahoma.

The Clerk read as follows:

Amendment offered by Mr. HASTINGS: Page 41, line 14, strike out "275" and insert "300," and in line 17 strike out "$61,875" and insert "$67,500," and in line 19 correct the total by striking out "$71,875" and inserting "$77,500."

Mr. CRAMTON. Mr. Chairman, as I understand, it is the gentleman's purpose to utilize the additional space that will result from the completion of the dormitory?

Mr. HASTINGS. That is correct. The dormitory has been completed and is now occupied.

Mr. CRAMTON. I have no objection to the amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Oklahoma.

The amendment was agreed to.

The Clerk read as follows:

Iowa: Sac and Fox, $1,800.

Mr. COLE. Mr. Chairman, I move to strike out the last word. I do so in order to ask the chairman a question. I see that this $1,800 is appropriated for the payment of taxes. I have had some correspondence with these Indians recently, who live in my district. Just what taxes, may I inquire, are paid out of this money?

Mr. CRAMTON. I do not understand that it is. Certainly not all of it is for the payment of taxes.

Mr. COLE. In the hearings, on page 372, it appears:

And most of it will be required for the payment of taxes on the reservation land.

Mr. CRAMTON. Which belongs to the Indians and is subject to local taxation. I have no information on the subject further than appears in the hearings.

Mr. COLE. These lands were purchased by the Indians. It is not an ordinary reservation. They own it in fee simple but the title is held in trust for the Indians by the Secretary of the Interior. There is some complaint about their taxes. The taxes are very heavy and the land, if it were divided, would not aggregate more than about 3 acres per Indian, and it is almost impossible for them to pay the taxes on their lands. I understand that on reservations no taxes are required, but these Indians, who bought their own lands, must pay taxes.

Mr. CRAMTON. On reservations the title is in the Government until it vests in the Indians by allotment, and, of course, Government land would not be subject to taxation.

Mr. COLE. These lands were purchased by the Indians; they own them, and the title to it is held in trust for them but they are subject to local taxation.

Mr. CRAMTON. For that reason. If the rate of taxation is unjust as against those Indians, I should think the matter would be one which the gentleman might very well investigate at the source of taxation, but I have no information on that subject. It has been sometimes surmised that Indian landowners in some parts of the country were taxed more heavily than whites holding similar lands. If that prevails in the gentleman's instance, I think he should demonstrate those facts first.

Mr. COLE. I do not think that is true in this case. These lands are along the Iowa River bottom; they are not very valuable, and I think the taxation is not excessive, but they do not have sufficient income to pay the local taxation, and I notice that there is provision made here for paying taxes, and I was just wondering what taxes are meant.

Mr. CRAMTON. Well, this tax is on those lands.

Mr. COLE. I know; but what taxes does the National Government provide for in this legislation?

Mr. CRAMTON. We are providing $1,800 to be paid out of the funds of those Indians to meet those local taxes upon the lands of those Indians.

Mr. BURTNESS. Will the gentleman yield?

Mr. COLE. Yes.

Mr. BURTNESS. Are these Indians engaged in farming?

Mr. COLE. Yes; they are engaged in farming.

Mr. BURTNESS. Then they are not different from other farmers in Iowa in that they are unable to pay their taxes, are they?

Mr. COLE. Well, I think the people of Iowa are paying their taxes, and these Indians are willing to pay their taxes. Of course, they are under the protection of the Government and they need a little help. I was led to make this inquiry by reason of the statement that this money was to be used in part in paying taxes.

Mr. CRAMTON. The committee would be delighted to consider, with a view to any relief possible, any information that the gentleman might develop as to the situation.

Mr. COLE. I thank the gentleman.

The pro forma amendment was withdrawn.

The Clerk read as follows:

Kansas: Kickapoo, $1,500; Pottawatomie, $2,800; in all, $4,300.

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

The CHAIRMAN. The gentleman from Michigan offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. CRAMTON: Page 51, between lines 20 and 21, insert a new paragraph, as follows:

"Michigan: Mackinac, $200."

Mr. CRAMTON. Mr. Chairman, this does not increase the total but corrects a clerical error.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Michigan.

The amendment was agreed to.

The Clerk read as follows:

Boise project, Idaho: For continuation of investigation and construction, Payette division, $400,000: *Provided*, That of the unexpended balance of the appropriation for this project for the fiscal year 1927 there is reappropriated for operation and maintenance, Payette division, $16,000; for investigations, examination, and surveys, Payette division, $16,000; for continuation of construction, Arrowrock division, $100,000; in all, $132,000.

Mr. CRAMTON. Mr. Chairman, I offer an amendment to correct the structure of the paragraph and not to change any of the appropriations.

The CHAIRMAN. The gentleman from Michigan offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. CRAMTON: Page 63, in line 23, strike out the words and figures "in all, $132,000."

The amendment was agreed to.

Mr. LEATHERWOOD. Mr. Chairman, I move to strike out the last word for the purpose of asking a question.

I am somewhat in doubt, after an examination of the estimates of the Bureau of the Budget and the hearings before the committee, as to just where the Payette division is located that this $400,000 is appropriated for.

Mr. CRAMTON. It is somewhat confusing because the Reclamation Service from year to year changes these names. We decided that the Black Canyon division and the Payette division are the same. It was formerly called the Black Canyon and this year it is called the Payette. The gentleman from Idaho [Mr. FRENCH] is more familiar with it than anyone else.

Mr. FRENCH. Let me say to the gentleman that the money carried in the bill last year, and heretofore where the unit has been referred to, has been appropriated for the Boise project, but for the use of the Black Canyon division or unit. This is not a new project. It is part of the Boise project, and in fact, some $2,000,000 or more has already been expended with the object, in part, of caring for these lands.

Mr. LEATHERWOOD. Is there any provision or estimate made for it in the Budget?

Mr. CRAMTON. The gentleman means for this $400,000?

Mr. FRENCH. No; that comes from breaking up the amount that was carried in the Budget and allocating it in a different way.

Mr. LEATHERWOOD. Is it a reappropriation of a fund?

Mr. FRENCH. No; the committee felt that on the whole it was better to make a different allocation than the allocation that was in the estimates that came from the Budget. It does not increase the Budget amount.

Mr. LEATHERWOOD. Is not this $400,000 specified here a part of the Budget estimate for the power plant at American Falls?

Mr. FRENCH. It could be so regarded, and if not expended here it might have been expended there.

Mr. LEATHERWOOD. Did not the committee take from the $1,500,000 estimate for the power plant at American Falls $800,000 and allocate $400,000 to the Payette division and $400,000 to the gravity extension unit, otherwise known as the Gooding project?

Mr. FRENCH. That is correct.

Mr. CRAMTON. As the gentleman may have heard me say on Saturday, that is exactly what we did.

Mr. BANKHEAD. Mr. Chairman, we are very much interested in this discussion over here, and as has been suggested heretofore this afternoon, the gentlemen over on the other side hold little informal caucuses on these matters when we would like to hear something about them. I would like the chairman of the subcommittee to repeat his statement so that we can hear it.

Mr. CRAMTON. We have done exactly what the gentleman has suggested—reduced the appropriation proposed for the power plant at American Falls by $800,000—and have felt that a much better use of that money would be to devote it to the Payette division of the Boise project and the gravity extension unit of the Minidoka.

Mr. BANKHEAD. Upon whose recommendation was that done, I will ask the chairman?

Mr. CRAMTON. That is the action of the committee upon the information before us. Of course, these projects are not new projects. I do not want to take the gentleman off his feet.

Mr. BANKHEAD. I understand, but we would like to know about this.

Mr. LEATHERWOOD. I am simply seeking information, and will ask for further time if necessary.

Mr. CRAMTON. If the gentleman does not mind, I may say that some time ago we constructed the Black Canyon Reservoir, and at that time it was contemplated that ultimately its waters would in part serve the Black Canyon division. Later a power plant was constructed in connection with that dam, and a temporary use of the power was granted to the Gem irrigation district, it being contemplated that ultimately the Gem would get its power from the Owyhee, and the Owyhee is now under construction. It was contemplated then that ultimately that power would go to serve the Black Canyon division. The Black Canyon division has been homesteaded by men who expected irrigation years ago and have been waiting for it. There are no great problems of settlement involved, and it seemed to the committee a more desirable use to take care of these homesteaders.

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

Mr. BANKHEAD. Mr. Chairman, I move to strike out the last two words. I would like to ask the chairman of the committee whether or not the Secretary of the Interior was before the committee with reference to any of these reclamation projects as well as the Director of Reclamation?

Mr. CRAMTON. The Secretary was not, in person. He was invited to come before the committee and file such statement as he desired. The Director of Reclamation was before the committee with reference to his program.

Mr. BANKHEAD. Did the Director of Reclamation make this specific recommendation as to the allotment of this $400,000?

Mr. CRAMTON. He did not.

Mr. BANKHEAD. That was done entirely upon the initiative of the committee?

Mr. CRAMTON. He discussed the construction of this division and recommended a small appropriation, but did not make this specific recommendation. What recommendation he may have made to the Budget I do not know. I am not advised whether he made any further recommendation or not.

Mr. BANKHEAD. One further question, although I do not want to be tedious with the chairman——

Mr. FRENCH. May I follow that up right there, because it is pertinent to the point, by saying it is my understanding that an appropriation for this particular unit a year ago was agreeable to the department, and as the chairman has said, this is in no sense a new project or even a new unit of a project. It is carrying out the program of this Congress approved over and over again through appropriations that have been made—the appropriations being made to the amount of half a million dollars every year for four years and the last appropriation being for the purpose not only of completing the dam but of building the power unit for the purpose of developing power.

Mr. BANKHEAD. I would like to ask the gentleman what this item contemplates—"for the continuation of investigation." The gentleman says it is not a new project, and if it is not a new project it is an old project and why is it necessary to continue investigation? Why is it that in an engineering problem that is well understood you have to appropriate a large sum for continued investigation? Is $400,000 going to be spent for investigation of the project?

Mr. FRENCH. None of that.

Mr. BANKHEAD. Why is it in the bill?

Mr. FRENCH. I doubt if that need be in the bill.

Mr. BANKHEAD. It is misleading, and if it is not necessary it ought to be cut out.

Mr. FRENCH. The gentleman ought to understand that the department when it undertakes a great program involving the expenditure of millions of dollars that is under way for years is constantly confronted with new details in connection with the project. For instance, in this project the question of storage is involved: Precisely how shall the storage be constructed? We must go 75 or 100 miles above the Black Canyon Dam to find a place for greater storage.

All the details touching that have not yet been worked out. Maybe a new site for a reservoir will be chosen instead of the one that to-day may seem most desirable. When it comes to working out the lateral canals all the details have not been worked out. However, I think the language "construction" would in itself impliedly carry enough authority to make further investigation that is necessary. I think, on the other hand, it is desirable to carry the words "continuation of investigation," so that there may be no question whatever of the authority of the department to make such inquiry as will make it abundantly sure in every instance that dams and canals and reservoirs shall be built in places where soundest wisdom dictates they ought to be constructed. That is the purpose of the word.

Mr. Chairman, most of the discussion of this item has turned not upon the merits of the item but rather upon the policy of the Committee on Appropriations touching items that are not specifically recommended by the Budget.

May I say that there is no more earnest champion of the Budget system in the House than am I, and I yield to no man in respect and admiration for the Director General of the Budget Bureau; and I can not find words adequate with which to commend the service that General Lord is rendering to the American people.

The Appropriations Committee, however, has not been stripped of the duties that rest upon it in our scheme of government and under the rules of the House it is the duty of the Congress to make appropriations for the expenditures of government. The Budget Bureau must be regarded as an outstanding guide for our actions, but the officers of the Budget Bureau would be the last persons in the world who would desire that the Congress ratify their every act, regardless of personal information that might suggest a reduction of one item, the increase of another item, or the reallocation of moneys recommended.

The proposition under discussion means the reallocation of an amount of money by the committee and the Congress. In bill after bill that comes before the Congress the Appropriations Committee approves items that have not been recommended by the Bureau of the Budget, omits items that have had Budget approval, and modifies other items in ways that under all the circumstances seem the wise and statesmanlike thing to do.

But the Committee on Appropriations may be wrong, and it is the duty of the House and of the Senate not to ratify carelessly the action of one of its committees, but to consider the action and then to use its own judgment upon the wisdom or the unwisdom of committee recommendations.

Now let me say a word with regard to the merits of the proposition before us: The Budget estimates included $1,500,000 for the Minidoka project, the money to be used for the construction of a power plant of four units, carrying one of those units to completion for the purpose of furnishing supplemental water to lands that are now receiving an inadequate water supply. It was the ultimate object in another few years to add the additional three units and thus to furnish water through a pumping system for new lands that are part of the public domain.

As against this proposition, by a different allocation of the $1,500,000, we could continue construction work on the Boise project with the objective of furnishing water to lands in the Black Canyon unit which have already been acquired by homesteaders and to which unit I made reference a few minutes ago.

For this purpose the committee recommended $400,000 and it has met the approval of this body.

We then recommended the allocation of $400,000 for investigation and construction of the gravity extension unit of the Minidoka project. This unit has not been included in Budget estimates. The land is now in the area embraced within the Idaho irrigation district, a Carey Act project. It contains 46,664 acres of land now under partial water supply, and 36,500 additional acres of new lands, 29,000 acres of which are public lands and 7,500 acres of which belong, for the most part, to the State of Idaho. It is not proposed that we reclaim the new land within the near future. It is proposed that the $400,000 be appropriated for the commencement of a large diversion canal from a point at about Milner, Idaho, for the purpose of furnishing supplemental water to the 46,664 acres now receiving inadequate water supply.

The acreage to which I have referred is the home of 9,000 people. The water that it is proposed to furnish them will be under gravity flow and not furnished through a pumping system.

The American Falls Reservoir will impound water some of which until some provision shall be made for its utilization will go to waste. In the judgment of the committee the most economical and the most reasonable use of the water at this time will be to furnish a supplemental water supply to these lands that are now inadequately served. The extension unit lies adjacent or contiguous to the northern lands of the Minidoka project, and the cost of the supplemental water supply to these lands will be approximately $35 per acre, though further investigations may modify the figure that I have indicated to some extent.

Much of the work of a committee must be directed to choosing between the use of money for one purpose or another. In this instance your committee believes that it is the part of wisdom to carry forward a program that will mean water supply for lands that have already been partially reclaimed, or that have been acquired under the homestead laws, rather than to undertake a program for the reclamation of new lands that would necessitate new settlers upon them, and especially when such reclamation would mean supplying water through a pumping system at a cost considerably greater than the acre cost for either the Black Canyon lands, upon the one hand, or the Minidoka lands under the extension unit upon the other. In my judgment the items should be approved.

Mr. BANKHEAD. I am glad that I have given the gentleman an opportunity to place that speech in the RECORD, and in a measure it answers my question.

The Clerk read as follows:

Minidoka project, Idaho: For operation and maintenance, reserved works, $71,000.

Mr. CRAMTON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 64, line 2, after the figures "$71,000," insert "continuation of construction, $75,000; in all, $146,000."

Mr. CRAMTON. Mr. Chairman, I think it was my error in eliminating that $75,000 from the estimate. It was the intention of the committee to include that.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

Minidoka project, American Falls Reservoir, Idaho: For operation and maintenance, American Falls water system, $9,000; for acquiring rights of way, $8,000; construction of power plant, $700,000; investigation and construction of gravity extension unit, $400,000: *Provided*, That none of the said sum of $400,000 shall be available for construction work until a contract or contracts shall be made with an irrigation district or districts embracing said unit which, in addition to other conditions required by law, shall require repayment of construction costs as to such lands as may be furnished supplemental water within a period not exceeding 20 years from the date water shall be available for delivery; in all, $1,117,000.

Mr. LEATHERWOOD. Mr. Chairman, I move to strike out the last word. I would like to inquire whether there are any estimates by the Bureau of the Budget for the $400,000 set forth in line 7, page 64.

Mr. CRAMTON. No estimate came to the committee.

Mr. LEATHERWOOD. Has it been authorized?

Mr. CRAMTON. No authorization is required other than the appropriation. There is authorization for the construction of the reclamation work and all that is necessary is for Congress to make the appropriation.

Mr. LEATHERWOOD. This is for what is known as the Gooding project?

Mr. CRAMTON. Yes.

Mr. LEATHERWOOD. That was a private project. Is not the Government attempting to take over by this appropriation a private project?

Mr. CRAMTON. We are not taking over the project. I hesitate to take all of the gentleman's time, but, on the other hand, I do not want to be discourteous. I want to give the gentleman what information he wants. Our committee has made a study of these things in the field, as well as hearing witnesses, and we do not feel that it is the function of Congress to be simply a rubber stamp. On the one hand, Congress

should not make these appropriations just in response to political expediency and log rolling, but, on the other hand, when it goes into a matter exhaustively and has all the information it is the function of that committee to act upon its own best judgment, whether it conforms to the dictates of the department or not. [Applause.]

I will give the information that the gentleman wants. As I say, I hesitate to take up too much of the gentleman's time, but if he insists on answers to the questions, I must answer them in my own way.

Mr. LEATHERWOOD. I agree most heartily with the statement of the gentleman. The reason I ask the question is that I have been confronted with technical objections from the committee constantly along this line, with the statement repeatedly that if the Budget Bureau had not made an estimate nothing could be done.

Mr. CRAMTON. The gentleman is not quite accurate in his recollection.

Mr. LEATHERWOOD. Oh, I am very accurate.

Mr. CRAMTON. I will give the gentleman the information now. In the gentleman's case he has sought to have something put into the bill that the Budget has not recommended to Congress and that the Committee knows nothing about. I have been on the Minidoka project and the American Falls Reservoir, and in that vicinity two or three times, and we have quite full information before us. We are just completing, as the gentleman knows, the American Falls Reservoir which has been under construction for a number of years, and is to be completed this year. The estimate the Budget has given for a million and a half dollars is to begin construction of a four-unit power plant. There is no need at the present time, in the judgment of the committee, and there will be no need for a number of years to come, for more than one unit; and there is no occasion at this time for spending a million and a half dollars for the construction of that power plant. The theory on which the department is acting is that a large area of land, some 110,000 acres of entirely undeveloped land—and, as I understand, largely not homesteaded, for which no settlers are now available—is to be opened up through pumping water, using the power from the American Falls plant.

Mr. LEATHERWOOD. Right there, if I may interrupt——

Mr. CRAMTON. That is the purpose the department has in mind.

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

Mr. LEATHERWOOD. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. LEATHERWOOD. I understood the gentleman to say that he was familiar with this project.

Mr. CRAMTON. I have visited the project; yes.

Mr. LEATHERWOOD. As I understand the situation, the land it is proposed to irrigate or to furnish with water, has been in private cultivation and is at the present time.

Mr. CRAMTON. Is the gentleman now speaking of the Gooding project?

Mr. LEATHERWOOD. Yes.

Mr. CRAMTON. The gentleman has not understood me. I was stating what the proposition is that the department seemed to have in mind. What the committee has recommended is different. There is the so-called Gooding or the gravity-extension unit, which is now in operation. The people are there. They have an insufficient water supply, and it is proposed——

Mr. LEATHERWOOD. Will the gentleman wait so that we can proceed intelligently; otherwise I shall have to assert my rights of time. I just want to ask the question so that we will not misunderstand each other. The language here is—

investigation and construction of gravity-extension unit, $400,000.

That is what is commonly known as the Gooding project, is it not?

Mr. CRAMTON. Yes.

Mr. LEATHERWOOD. The reason I interrupted the gentleman is that I wanted to be sure that we both understood this alike.

Mr. CRAMTON. That is the Gooding.

Mr. LEATHERWOOD. That was a private project.

Mr. CRAMTON. That is a private project.

Mr. LEATHERWOOD. And was a failure as a private project?

Mr. CRAMTON. For lack of sufficient water supply, and the proposition the committee has recommended is to bring about the salvation of that project where there are settlers already on the land by the construction of a canal. It is not the purpose to take over the private project, but all we are going to do is to construct a canal to carry the water to the project, and then it will come through their own distribution system.

Mr. FRENCH. It is a supplementary water——

Mr. LEATHERWOOD. Just one minute, Mr. Chairman; I believe I have control of the time.

Mr. CRAMTON. The gentleman understands that I have taken the time only at his instance.

Mr. LEATHERWOOD. I am glad to have the gentleman do that.

Mr. CRAMTON. I much prefer to use my own time.

Mr. LEATHERWOOD. I want to ask a question, and then I will be glad to get the views of the gentleman from Idaho [Mr. FRENCH]. I am not prompted to ask these questions because of any antagonism, but I am wondering what the method is which has been used in the procedure, in view of the difficulties that have confronted us in the last two or three years on other matters pertaining to irrigation. As I understand, the committee arbitrarily cut off $800,000 from the power project at American Falls and has allocated the $400,000 to the investigation and construction of a gravity extension unit, known as the Gooding project. May I ask the gentleman from Michigan now what he understands as the extension of a project?

Mr. CRAMTON. I think there is no occasion for me to answer questions that answer themselves.

Mr. LEATHERWOOD. Let me ask this question, and maybe it will not answer itself. Is this land in question contiguous to any existing project known as the Minidoka project?

Mr. CRAMTON. It utilizes water from the American Falls Reservoir.

Mr. SMITH. If the gentleman would permit, I would say that it is contiguous to the north side extension of the Minidoka, and the water is taken by the American Falls at the expense of the settlers. They are drawing off the water stored at the American Falls for this gravity unit.

Mr. LEATHERWOOD. What I am trying to get at is not to antagonize the procedure, but to see if we can not arrive at a stage where we will have uniformity of procedure with reference to other projects.

Mr. TILSON. In other words, the gentleman is trying to find out how he may proceed likewise in order to get some appropriations for his project.

Mr. LEATHERWOOD. Because of past experience in this House and with the subcommittee.

Mr. BYRNS. Mr. Chairman, I want to ask the gentleman from Michigan [Mr. CRAMTON] a question. He has already stated that there are two projects to which his particular attention has been called in this bill which were not recommended by the Budget, but which the subcommittee has placed in the bill to the contrary notwithstanding. I know of at least one other.

I would like to ask the gentleman how many of these projects under the head of reclamation have been put in this bill which were not recommended by the Budget or the Secretary of the Interior and did not come here in the orderly and regular way under the rules of the Budget and under the rule announced, as I understand it, by the chairman of the Committee on Appropriations, the gentleman from Illinois [Mr. MADDEN], a rule which, I will say to the gentleman from Utah, in the subcommittees on which I serve under the chairman of the committee [Mr. MADDEN] has been strictly adhered to. I was present when this bill was explained in the full committee and where I asked the specific question, and I will say to the gentleman frankly I understood there was only one project in this bill that was not recommended duly and regularly by the Budget. I do not mean it was misrepresented, but the committee was not informed in my hearing that these matters were not regularly recommended either by the Budget or that they did not have the approval of the Reclamation Service.

Mr. LEATHERWOOD. Will the gentleman yield?

Mr. BYRNS. In just a minute. While I have no knowledge or information in regard to the merits or demerits of this proposition, I still insist, gentlemen, that even though the gentleman from Michigan says he and part of his subcommittee had the advantage of going out and personally investigating it, other Members of the House have not had that opportunity, and certainly the House is entitled to have the recommendation of the Secretary of the Interior, reinforced by the Director of Reclamation, competent, patriotic, and conscientious gentlemen, before we are called upon to pass upon such a proposition. I agree with the gentleman from Utah that if we are going to have such a rule, let us not adhere to it in one instance and then turn around and set it aside in another.

I think we are entitled to some explanation why these propositions have been put on this bill without a recommendation from the Budget and in the face of the fact that the Secretary

of the Interior, has not indorsed them and, as to one of them, went so far as to say that if the proposition be put in this bill he wanted it made mandatory; or, in other words, he said: "Put language in the bill which will not require me to declare to the President I think it feasible or indorse the proposition in any way." I have simply taken this occasion, in view of what the gentleman from Utah has said, to say that, so far as my observation goes, the gentleman from Illinois [Mr. MADDEN] has been consistent. He has insisted that all subcommittees follow that rule, and I am very much surprised at the information that has been given here.

Mr. LEATHERWOOD. Will the gentleman yield?

Mr. BYRNS. I will.

Mr. LEATHERWOOD. It was that very thing that has been stated to me, not only in regard to reclamation matters but other matters—that unless an item was estimated for by the Budget it was not worth while to offer an amendment—which prompted me to ask the question.

Mr. BYRNS. I think the gentleman was absolutely justified in his criticism and in what he had to say, because, I repeat, if we are going to have a rule it ought to be uniform, and members of the committee should be careful that the practice is uniform and that everyone is treated alike.

Mr. BANKHEAD. Will the gentleman yield?

Mr. BYRNS. I will.

Mr. BANKHEAD. Possibly it may have some significance in the fact that the gentleman from Idaho [Mr. FRENCH] is a member of this committee which causes this variation from the uniform practice in respect to Budget regulations.

Mr. BYRNS. I will not say that, but I do insist that the subcommittee should follow the rule, which, as I understand, was followed by the full committee.

Mr. CRAMTON. Mr. Chairman, I am greatly surprised at the gentleman from Tennessee [Mr. BYRNS], for whose good opinion I have such a great regard, the ranking minority member of the Committee on Appropriations. I am frank to say I am hurt as well as disappointed with the gentleman, carrying the weight that goes with his position as ranking member of the minority of the Committee on Appropriations, that he should come into the House and make a statement charging me with duplicity in handling these matters.

Mr. BYRNS. Will the gentleman yield?

Mr. CRAMTON. I decline to yield. The gentleman refused to yield to me.

Mr. BYRNS. Well, now——

Mr. CRAMTON. I refuse to yield.

Mr. BYRNS. I did not refuse to yield to the gentleman.

Mr. CRAMTON. The gentleman refused to yield to me even when he was making a statement susceptible of that construction.

In the Committee on Appropriations both of these items were presented. The report itself shows that the amount reported is above the Budget figure. Each item was discussed in the committee, and I made the exact statement in committee that we had reduced the American Falls item $800,000 and had distributed that $800,000 as here indicated.

I can not think that the gentleman from Tennessee [Mr. BYRNS] would intend to unjustly characterize my action in that way. Now, the facts are that there are before this House in the bill now before us certain items with reference to the Reclamation Service, three of which are not based on the findings or recommendations of the Budget. The gentleman from Utah [Mr. LEATHERWOOD] speaks of his case in connection with the Utah item, and which he has sought to have inserted in the paragraph in reference to some kind of a project that the committee itself has no information about, a project that has never been estimated for by the Budget.

Mr. LEATHERWOOD. Mr. Chairman, will the gentleman yield there?

Mr. CRAMTON. Not just now; and which the gentleman himself, when he has presented the amendment, has each time admitted that it was not intended to expend any money—next year, anyway. It was a kind of idle proceeding. That does not affect this situation.

Now, as to the action of the committee on the item before us—$400,000 for the so-called Gooding project or the gravity extension unit of the American Falls: The gentleman from Tennessee [Mr. BYRNS] lays down the proposition that the Commitee on Appropriations should never report to this House any appropriation except one approved by the Budget. If this House wants to subscribe to that doctrine, very well; but the Constitution of the United States places the responsibility for the selection of expenditures of money from the Federal Treasury in this House. True, Congress enacted the Budget system, and that system has performed a wonderful work, and no subcommittee has backed up the Budget more steadfastly than has ours. We have never reported a bill except one materially under the Budget figure, and the bill before you is something over a million dollars below the Budget figures, and the reclamation program is below the Budget figures. It is only in the clearest case in the judgment of the committee that we depart from the Budget figures if we add anything that is not in the Budget.

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

Mr. CRAMTON. In a moment. But unless in my judgment the Congress is to be all a rubber stamp, unless our committees are just to be a combination of rubber stamps, we owe it to ourselves to recommend appropriations in harmony with our judgment after we have made a proper investigation.

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

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

Mr. CRAMTON. Mr. Chairman, I ask for five minutes more, and then I will yield to the gentleman from Tennessee, or to both gentlemen.

The CHAIRMAN. The gentleman from Michigan asks unanimous consent to proceed for five minutes more. Is there objection?

There was no objection.

Mr. CRAMTON. I am not discussing at this moment the merits of this particular proposition, but I am assailing the proposition laid down, namely, that we should never recommend an item, however worthy, unless it has the approval of the Budget.

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

Mr. CRAMTON. Yes.

Mr. ROMJUE. Will the gentleman say, if he knows, what happens to be the attitude of the Interior Department with reference to this Gooding project?

Mr. CRAMTON. I have no right to quote the department. I think it is a matter under discussion there as yet.

Mr. ROMJUE. Have you not reason to believe the Interior Department is opposed to the project?

Mr. CRAMTON. My impression is that they are not distinctly unfavorable to it. I have not the right, however, to speak for them.

Mr. ROMJUE. I understand there are three of these projects, according to the gentleman's statement, that are in this bill that are not recommended by the Budget Director this year.

Mr. CRAMTON. Yes; this year.

Mr. ROMJUE. Can the gentleman say how much money is involved in these three projects, if he happens to remember?

Mr. CRAMTON. The gentleman means in this bill?

Mr. ROMJUE. Yes.

Mr. CRAMTON. In this bill it is twelve hundred and fifty thousand dollars.

Mr. BLANTON. It is $1,250,000.

Mr. MURPHY. Mr. Chairman, will the gentleman yield there?

Mr. CRAMTON. Yes.

Mr. MURPHY. If the gentleman will permit me to refresh his memory with reference to the statement made by the ranking minority member of this committee, that we never go above the recommendation of the Budget, I will quote something that he will remember. On national prohibition a few years ago they went above the Budget $73,120.

The committee of which he is a member last year, on rural sanitation, went $15,000 above the Budget. This year the committee of which he is a member is $12,000 above the Budget on the same item and on the Carson City mint item has gone $6,000 and some hundred dollars above the Budget. The gentleman just made the statement that they always adhere to the recommendations of the Budget.

Mr. CRAMTON. The gentleman emphasizes what is the fact. Further the chairman of the Committee on Appropriations has no lack of confidence in this subcommittee and its course in such respects has not led to any criticism from him is, as has been pointed out, entirely in harmony with the practice of the committee, of which the gentleman from Tennessee is the ranking minority member.

Mr. HILL of Maryland. Will the gentleman yield?

Mr. CRAMTON. Yes.

Mr. HILL of Maryland. I am not entirely clear about this discussion. On this Minidoka project the appropriation is $1,117,000. I would like to ask the chairman of the subcommittee whether it is his statement to this committee that this was not at all considered by the Budget in any way?

Mr. CRAMTON. Well, I do not know how much attention the Budget has given it.

Mr. HILL of Maryland. Has the Budget approved any recommendation as to this whole item?

Mr. CRAMTON. Oh, well, a great part of it is approved by the Budget.

Mr. HILL of Maryland. Then all of this $1,117,000, except the $400,000, was recommended by the Budget?

Mr. CRAMTON. Yes.

Mr. HILL of Maryland. Did the Budget make any recommendation at all on the $400,000?

Mr. CRAMTON. None at all.

Mr. HILL of Maryland. None adverse or none favorable?

Mr. CRAMTON. No.

Mr. BLANTON. Will the gentleman permit me to ask him a question?

Mr. CRAMTON. Yes.

Mr. BLANTON. The gentleman deprecates the possibility of our being rubber stamps. He admits that he has kept this bill $1,000,000 under the estimates made by the Budget and yet has put in the bill $1,250,000 that the Budget did not recommend. That would indicate that the gentleman's committee has not allowed $2,250,000 of the propositions that the Budget recommended. Now, if the committee can have such latitude of going against the Budget to the extent of $2,250,000, and his committee does not want the other 400 Members of Congress to have any say so about the bill, is he not making rubber stamps of 400 Congressmen, even though he has kept his 35 out of that category?

Mr. CRAMTON. Let me say to the gentleman that it is self-evident that our first obligation under the rules of our committee has been that we would not go above the total recommended by the Budget. Now, in the balancing of expenditures with revenues the Budget program is not thrown out of joint as long as we do not in any bill in the total go above the Budget figures.

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

Mr. CRAMTON. I will have to ask for three minutes more.

The CHAIRMAN. The gentleman from Michigan asks unanimous consent to proceed for three additional minutes. Is there objection?

There was no objection.

Mr. CRAMTON. So the committee goes over these items carefully and exercises its best judgment but always keeping below the Budget total. As a matter of fact we have made various increases in the bill. If this House does not approve any item in the bill that its full committee has approved it can vote such item out of the bill. That is in the hands of the House. For instance, under relief of distress and conservation of health in the Indian Service we went $68,000 above the Budget figures. We asked the head of the Indian Health Service to outline to us what use he would make of an additional amount and he gave us a program of $68,000 that met with our favor and knowing that we were making reductions elsewhere in the bill and knowing we would not disturb the Budget program we put in that $68,000. Now, unless our reasons appeal to the House, the House would vote that increase out, and unless the items we are now discussing appeal to the House, the House will strike them from the bill. But the House should not be guided, any more than we should be guided, solely by the statement of the Budget. We owe a responsibility for the proper expenditure of that money, and we believe that this expenditure of $800,000, $400,000 on the Boise project and $400,000 on the Minidoka project, is better as we have recommended than as recommended by the Budget, and we simply ask you to consider it on its merits.

Mr. HILL of Maryland. Will the gentleman yield for a question?

Mr. CRAMTON. I yield.

Mr. HILL of Maryland. I am very much interested in the attitude of mind of the Committee on Appropriations to the Budget and I am not at all clear on this particular item. I have here the report of the Committee on this bill which the gentleman, as chairman of the subcommittee, has rendered and on page 18 it says "Minidoka project, American Falls, Idaho, appropriation for 1927, nothing; budget estimate for 1928, nothing."

Mr. CRAMTON. Let me explain to the gentleman that the Minidoka has heretofore been carried as one item, but in fact the operations about American Falls are so important that for future convenience this year the committee divided the item into two parts. Then there are certain other changes that disturb the figures, and without taking the time to go into all those transfers and changes I simply state the situation when I say that $400,000 for the gravity extension unit recommended by the committee was not recommended by the Budget. All of the rest was recommended.

Mr. HILL of Maryland. That is the only thing I wanted to understand.

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

Mr. BYRNS. Mr. Chairman, I move to strike out the last two words.

I do not want to take up the time of the committee but I do want to disclaim, of course, any intention of accusing the gentleman from Michigan of duplicity. I would be the last man in the House to do that, because the gentleman, of course, would not be guilty of duplicity in this instance or in any other instance.

The gentleman, as I said, appeared before the full committee and explained the bill, but I repeat that the gentleman neglected to tell the committee, if my memory serves me correctly, what he has told us here concerning these two projects. There are other members of the committee on this floor and they can correct me if I am mistaken; but this is the first intimation I have had that there was more than one project under the Reclamation Service which was not recommended in some way by the Bureau of the Budget. I was very much surprised, therefore, when, in answer to the gentleman from Utah, the gentleman stated that this proposition was not recommended, and in a previous colloquy, I think with the gentleman from Alabama [Mr. BANKHEAD] admitted that another project was not recommended by the Budget.

I did not say that we should follow the Director of the Budget and only consider propositions that the Bureau of the Budget recommends; but I submit to every gentleman in this House that the distinguished chairman of the Appropriations Committee, the gentleman from Illinois [Mr. MADDEN]—and I wish to take occasion to say here what I have said on many other occasions, I do not think the Appropriations Committee ever had an abler, a more consistent, a more earnest, and a more loyal, economical chairman than the gentleman from Illinois; but I submit to you gentlemen that the gentleman from Illinois has repeatedly upon the floor of this House stated that it was the rule of the committee that the committee would not insert in appropriation bills propositions which are not recommended by the Bureau of the Budget in some form or fashion, or which did not have the approval of the head of the department.

If we are going to follow this rule, my only contention here is that we ought to fairly enforce it and we ought not to make fish of one and fowl of another. We ought to be uniform with respect to its application, not only in this bill but in all other bills. The gentleman from Ohio [Mr. MURPHY] has called attention to three different appropriations in which he states the subcommittee, presided over by the gentleman from Illinois, went beyond the Budget in some particulars.

I do not understand the rule laid down by the chairman of the committee to be that the committee will not increase or decrease an estimate when the Bureau of the Budget has said it is a feasible proposition and ought to be adopted in some way. It is left with the committee as to whether we shall grant more money or less money; and I say to the gentleman from Ohio that according to my recollection the bill just passed, the Treasury and Post Office bill, contained no proposition whatever which had not in some way or in some form been recommended either by the Bureau of the Budget or the head of the service.

Now, take this proposition—I am not controverting the position of the gentleman from Michigan for a moment. These propositions may be meritorious, and I am prepared to say that the judgment of the five gentlemen who compose this subcommittee and who have given the matter their attention and their thought are entitled to the fullest consideration; but, my friends, I am not willing to say that they are right and that the Director of Reclamation and the Secretary of the Interior are wrong. I do not know and you do not know. We have men down there at the head of this department who make a study of these things. I do not think we ever had a more competent Director of Reclamation than the present director, Doctor Mead; and I say that so far as I am concerned in these matters, which are complicated and which I do not understand, I would prefer, infinitely prefer, before I vote $1,250,000, and what will ultimately amount in one project to $6,000,000 out of the reclamation fund, to know that the Director of Reclamation approves it.

This is the position I take, and I want to again express my surprise that this bill contains projects which in no sense have been recommended, and on the contrary some of them have been absolutely opposed by the Secretary of the Interior.

Mr. HILL of Maryland. Mr. Chairman, I move to strike out the last three words. I do this, Mr. Chairman, for the purpose of asking a question of the gentleman who just spoke if he will permit. I am trying to get clear, in my own mind, the

relation between the recommendations made by the departments and the Budget and the Appropriation Committee. As I understand from the gentleman, this particular item of $400,000 was never considered by the department and never recommended to the Budget; is that correct?

Mr. BYRNS. I do not know. I have absolutely no information about that. I am not on the subcommittee and was not present therefore at the hearings. As I have said, this is the first time I have known about it. I do not know what recommendation the Secretary of the Interior made. The gentleman from Michigan [Mr. CRAMTON] can inform the gentleman.

Mr. HILL of Maryland. May I ask the gentleman whether the Committee on Appropriations is supposed to consider anything that is not recommended to it by the Budget?

Mr. BYRNS. Oh, that, of course, rests with the committee; but, as I have said, the gentleman from Illinois has laid down the policy that the committee will not report to the House propositions which are not in some way recommended by the Budget—not exactly as it recommends them, possibly, but propositions which the Bureau of the Budget or the President, who really sends the estimates here, has not said are needed; that is, that the money is needed and the work ought to be done.

This is the policy the gentleman has laid down, and I thought it was being adhered to; and certainly, let me say to the gentleman from Maryland, in every report that is made, and the gentleman from Ohio just read from the report on the Treasury and Post Office bill, it appears on the face of the report that the subcommittee has exceeded the Budget. But I fail to find in this report any statement to the effect that these particular appropriations are not recommended by the Budget.

Mr. HILL of Maryland. I would like to ask the gentleman one further question about that. I am very much interested, for instance, in the matter of Army housing. The War Department made a recommendation to the Budget of a certain allocation of the funds in the permanent military post construction fund which Congress set apart, making certain allocations for certain Army posts.

The Budget rearranged the whole thing and sent it to the Appropriations Committee. I would like to ask the gentleman if it is the policy of the Appropriations Committee to make any changes they wish in the matter as submitted?

Mr. BYRNS. The gentleman understands I can speak only for myself. I am not the chairman, and I am not a member of the majority. Under these circumstances I would not undertake to tell the gentleman what the policy of the committee is. I leave that to others.

Mr. HILL of Maryland. I will ask the chairman of the subcommittee if there is a general rule that they will not reallocate an item in the Budget?

Mr. CRAMTON. I am glad to answer the gentleman's question. I have served six years as chairman of the subcommittee. I yield to no one on that committee in my admiration for the gentleman from Illinois [Mr. MADDEN]. No man has tried more zealously to support him and his work on that committee. I will say that the rule has never been laid down as the gentleman from Tennessee suggests. The only rule suggested by the gentleman from Illinois is that the total shall not be above the Budget total. Of course, there is another rule that we shall not indulge in legislation, but that is not pertinent to this. We have reported for several years and done exactly what we have done here. The gentleman from Tennessee joined in the report on the last Treasury and Post Office bill that violated the rule that he lays down with relation to Carson City (Nev.) Mint. There was not a penny in the Budget recommended for that.

Mr. BYRNS. The Director of the Mint came before the committee and asked that Carson City be included in the appropriation bill, and the committee yielded to the request of the Director of the Mint, but in no instance has the committee on the Treasury and Post Office bill refused to abide either by the Budget or the head of the department.

Mr. CRAMTON. Oh, the gentleman is now putting in something else.

Mr. BYRNS. We acceded to the request of the Director of the Mint.

Mr. CRAMTON. The RECORD will show that the gentleman from Tennessee said that in no instance had he approved anything unless there was something in the Budget, and there was nothing in the Budget with reference to the Carson City Mint.

Mr. BYRNS. It is shown in the report of the subcommittee that this report submitted by the gentleman from Michigan does not show the items that were not recommended by the Budget.

Mr. CRAMTON. The report shows——

Mr. BYRNS. I hope that gentlemen will take it and see if they can elicit any information as to the effect that it is not recommended.

Mr. HILL of Maryland. Mr. Chairman, I would like to ask the gentleman from Michigan one question. I have entire confidence in the chairman of the subcommittee [Mr. CRAMTON], the gentleman from Michigan, but I am trying to get information as to the point of view of the Appropriations Committee. As I understand the Appropriations Committee has no fixed rule which does not permit the increase of an appropriation above that set out by the Budget; nor has it a fixed rule which prevents a new item being inserted in the bill not based upon the Budget, provided the total does not exceed the Budget total.

Mr. CRAMTON. The policy of the committee, as I understand it, is that the total shall not exceed the Budget total. They may increase an item in the Budget, or they may insert one that is not in the Budget. Since I am on my feet I will say to the gentleman in response to what he has said that we have been faithfully following the instructions of the chairman; that, with reference to one item inserted by us that was not in the Budget I consulted the chairman of the full committee, and our handling of that subject has had his express approval.

Mr. HILL of Maryland. I thank the gentleman; we are both interested in the subject of water. [Laughter.]

The Clerk read as follows:

Milk River project, Mont.: For operation and maintenance, $36,800; continuation of construction, $15,000; in all $51,800.

Mr. CRAMTON. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. MICHENER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 14827) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1928, and for other purposes, and had come to no resolution thereon.

## PANAMA CANAL ZONE

Mr. PARKER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 12316) to amend the Panama Canal act and other laws applicable to the Canal Zone, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and ask for a conference.

The SPEAKER. The gentleman from New York asks unanimous consent to take from the Speaker's table the bill H. R. 12316, with Senate amendments thereto, disagree to the Senate amendments and ask for a conference. Is there objection?

Mr. BANKHEAD. Mr. Speaker, reserving the right to object, is this agreeable to the minority of the committee?

Mr. PARKER. Yes.

The SPEAKER. Is there objection? The Chair hears none.

The SPEAKER appointed the following conferees: Mr. PARKER, Mr. DENISON, and Mr. BARKLEY.

## INTERIOR DEPARTMENT APPROPRIATION BILL

Mr. FRENCH. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. FRENCH. Mr. Speaker, the Interior Department appropriation bill as it came to Congress from the Bureau of the Budget carried for new construction $1,500,000 for power development at American Falls. The Committee on Appropriations came to the conclusion that an amount of money equal to this amount carried in the bill could be allocated to projects in Idaho in a manner that would serve in far better degree the purposes of reclamation within the next several years and accordingly the committee reported the bill which is before you carrying $700,000 for the American Falls power development program, $400,000 for the Minidoka Gravity Extension Unit, and $400,000 for the Payette Unit (Black Canyon) of the Boise project for the coming fiscal year.

The advisability of the action of the committee has been questioned by some Members of Congress, and it is only fair toward them and toward the committee that I make available a statement touching the factors that entered into the consideration of the subject. It often happens that the department is required to choose between objects when a limited amount of money is available for expenditure, and the Congress from time to time must do the same.

The American Falls Reservoir has been constructed at a cost of more than $4,000,000 (by the end of the present fiscal year), and more than $3,000,000 of further expenditure will need to be made in connection with power development.

It must be the desire of the Government to find land to receive the unallotted waters from this great reservoir, for

it is inconceivable that these waters should run to waste. Likewise it is inconceivable that we shall not develop water power.

THE ALTERNATE PROGRAMS

The program recommended by the Bureau of the Budget and supported by the Interior Department through Doctor Mead, the Commissioner of Reclamation, provides for the allocation of $1,500,000 to the construction of a power plant at the American Falls Dam in 1928. It is proposed that the foundation for a four-unit power plant and one of the units be completed. This part of the program, which is all that up to the present has been approved by the Bureau of the Budget, constitutes the first year in the 10-year tentative reclamation program for future work of the Department of the Interior.

The 10-year program calls for an expenditure of more than $6,000,000 in addition to the amount recommended for the coming fiscal year for American Falls power development and for construction of the north side pumping unit of the Minidoka project.

Consider another factor: The Minidoka extension unit embraces a tract of land for which storage water is sought from the American Falls Reservoir for 83,164 acres. Of this amount, an inadequate water supply from the Magic Reservoir for part of the lands is available. The additional lands have no immediate water supply; and while ultimately it is the desire that these lands receive water from the American Falls Reservoir, the program that is presented to the Congress by the Appropriations Committee in lieu of the department program calls for the beginning of construction of a large diversion canal and laterals to supply supplemental water to 46,664 acres.

The lands are adjacent to lands of the Minidoka project, and there is an unallotted surplus of water in the American Falls Reservoir amounting to 343,000 acre-feet.

We then face the problem of the order in which work shall proceed, namely: Shall further early expenditure be made for the development of power in connection with pumping units, or shall further early expenditure be made in connection with the use of surplus water that with the completion of the American Falls Dam in 1927 will be available?

Doctor Mead, on page 166 of the hearings, on November 23, 1926, advised the subcommittee of the Committee on Appropriations as follows:

> The American Falls Dam is being constructed for the United States under contract of the Utah Construction Co. to develop a reservoir of 1,700,000 acre-feet of storage. This dam will be completed by June 30, 1927. Its construction is being done on a cooperative basis with irrigation districts and canal companies whose lands aggregate 700,000 acres in the Snake River Valley. These districts and canal companies have contributed $4,335,775 toward the construction of the reservoir. The capacity of the reservoir is allotted at present as follows:
>
> | | Acre-feet |
> |---|---|
> | Minidoka north side pumping division | 522,000 |
> | Irrigation districts, etc | 790,000 |
> | Idaho Power Co., power rights | 45,000 |
> | Unallotted | 343,000 |
>
> *Future operations.*—Of the storage in American Falls Reservoir 522,000 acre-feet are allotted to the development of the Minidoka north side pumping division for the development of 115,000 acres of land lying north and above the gravity division of the Minidoka project. If the United States is to build the necessary works for the irrigation of these lands, additional power will be needed and an appropriation is requested for power development at American Falls Dam:
>
> (a) To provide a reserve power supply for the Minidoka project.
>
> (b) Provide power for the increase in the capacity of the south side pumping plants, which is contemplated in the contract with the Burley irrigation district.
>
> (c) Permit saving part of the water which is now required for development of winter power at Minidoka Dam.
>
> (d) If the surplus power can be disposed of to the Utah Power & Light Co., as seems probable, the profits could be applied on the construction cost of the plant. In this way part of the investment in power development at American Falls would be liquidated by the time the Minidoka north side extension project requires the power for pumping.
>
> (e) Provide power for construction of either the Gooding or the Minidoka north side extension project.
>
> The Minidoka north side extension project will when completed require practically all of the power which the Government is permitted to develop under its contract with the Idaho Power Co. There are at present 343,000 acre-feet of unsold and unallotted storage in the American Falls Reservoir. Application for water has been made by farmers in the vicinity of Wood River. Approximately 46,664 acres require a partial water supply and 36,500 acres require a full water supply. Engineering and economic reconnaissance surveys of the project are being made.

From examining the foregoing it is clearly apparent that two alternate programs are in the minds of the officers of the Reclamation Service, namely: (1) The construction of the Minidoka north-side pumping unit; or (2) the development of the Minidoka extension unit, which has been referred to as the Gooding unit. This latter I shall refer to a little later on.

ALTERNATE PROGRAM NO. 1

Consider, first, the development of the Minidoka north-side pumping unit. This division includes 115,000 acres of land lying north and above the gravity division of the Minidoka project. Accurate costs for pumping and for the reclamation of these lands are not now available. The department has allocated 522,000 acre-feet for these lands over and above the unallotted 343,000 acre-feet within the reservoir.

Unquestionably as desirable as it will ultimately be to develop this pumping unit, the members of your Subcommittee on Appropriations were impressed with the higher costs for reclamation of these lands than will be the costs in following the program for reclamation of lands recommended by your committee. Yet in the 10-year program tentatively suggested by the Interior Department the inclination of the department is for the pumping unit instead of the gravity unit. More than that, this is new land, public land, this area of 115,000 acres. The members of your committee know full well that at this time this House does not desire to appropriate money for the reclamation of new land unless these lands have been acquired by settlers through the encouragement of the Government in contemplation of reclamation.

ALTERNATE PROGRAM NO. 2

The possible program No. 2 refers to the Minidoka Gravity Extension Unit, the commencement of which is recommended by your committee. This means the allocation to this unit of $400,000 instead of including a like amount in further development of the pumping system and power plant at the American Falls Dam. This extension unit, as I said a bit ago, is not recommended at this time by the Bureau of the Budget or by the Interior Department. But you must not understand by that that your committee and the Interior Department have no information on the subject.

This is the unit referred to by Doctor Mead, a quotation from him I cited a few moments ago. This is the unit to which he refers in item (e) in his statement. This is the unit to which he referred when he stated:

> Approximately 46,664 acres require a partial water supply and 36,500 acres require a full water supply. Engineering and economic reconnaissance surveys of the project are being made.

Not only that, but already partially under appropriations made by the Congress, examination has been had of the unit, and reports have been made to the Reclamation Service by the reclamation engineers under date of November 25, 1925, and signed by Homer J. Gault, engineer, United States Bureau of Reclamation, and by T. H. Morrell and R. B. Greenwood, the latter making a preliminary report on the economic and agricultural phases of the proposition.

While it is true the economic report is not final, the concluding paragraph by Morrell and Greenwood says:

> It is our opinion that farming operations on the proposed Gooding project would meet with success except in the roughest area. The soil and climate are good, and with plenty of water there is nothing, from an agricultural or economic point of view, that would cause failure.

Then, with even the preliminary report so favorable and with the well-known and favorable economic conditions attaching to these lands that attach to other irrigated lands in the immediate section, the situation looks favorable for the unit providing the engineering features and costs per acre of supplying water are reasonable.

I can take time to include only the essential features of Engineer Gault's report. In the Gault report to the Reclamation Service the engineer points out that "about 46,640 acres have a partial water supply from Big Wood and Little Wood Rivers, but the present supply is insufficient for successful farming every year." The report then refers to some 36,500 acres of new land, which we do not need to consider specifically at this time other than to see what the acre costs will be for these lands. The report indicates that for the lands that are in need of supplemental water the costs per acre will be $34.27, and that for the new lands the costs will be, for 30,724 acres, $85.16 per acre, and for 5,776 acres $77.19 per acre.

The total costs over a period of years for old lands and new lands is estimated at $5,963,207, but, as I said, within the present program we are not providing moneys for the new

lands. The main canal that will need to be built and that will serve the lands that are partially reclaimed and later on the new lands the engineer estimates will cost $3,052,159.

Probably I should say that the estimated costs per acre that I have referred to include moneys that will need to be paid by the settlers for their share in the use of the Milner and the American Falls Dams, which have already been constructed or for which appropriations have been made.

Another feature that could not be avoided in considering the question was the present indebtedness of those who have lands under the extension unit for which they require supplemental water. I do not refer to municipal indebtedness for schools, highways, and so forth; I refer merely to the indebtedness of the irrigation district.

On the unit that receives water from the Big Wood Canal Co. the bonded indebtedness is $163,500, or $2.16 per acre of irrigable land. On this unit that is receiving partial water supply there are 1,027 stockholders plus 97 farms with decreed water rights, or a total number of owners of 1,124. The number of record owners of real estate in the district is 1,819. The average amount of land owned by each owner is approximately 75 acres, and approximately 85 per cent of the cultivated land of the district is owned by persons residing within the district. Within the district, including the residents of towns, is a population of 9,000 people.

Now, just a word as to why the people on this tract need supplemental water and why the supplemental water should be furnished from the American Falls Reservoir. The Magic Reservoir that supplies the water that is now used in reclamation was completed some 15 years ago by a Carey Act company known as the Idaho Irrigation Co.

This reservoir has a capacity of 192,000 acre-feet and certain decreed rights to waters of Big and Little Wood Rivers. The country where the lands are located is in an arid belt, and the experience during the last 15 years has demonstrated that the rainfall is not sufficient to insure an adequate water supply. Between 1911 and 1926, inclusive, there have been but seven years when the reservoir has been filled to capacity; there have been three years when the accumulated storage was less than one-half, and four other years when the storage was approximately three-fourths of what it should have been.

But farmers can not succeed when interspersed with successful years are the uncertain years of water shortage. Because of this we must obtain supplemental water. There is no available supplemental water source from which water can be obtained at a reasonable cost other than the American Falls Reservoir. This reservoir was built for the purpose of conserving waters for reclamation. Three hundred and forty-three thousand acre-feet remain unallotted, exclusive of 522,000 acre-feet allotted to a pumping unit for new lands that at best can not be reclaimed short of several years, unless the pumping unit be preferred over the gravity extension unit.

So, then, the Committee on Appropriations was called upon to choose in the allocation of $1,500,000 recommended by the Interior Department and the Bureau of the Budget. These two agencies of our Government recommended that the entire amount be expended in the development of a power plant at the American Falls Dam. Your committee believes that a different allocation will meet the situation far better. Your committee recommends $700,000 for continuation of construction work on the power plant at American Falls Dam for 1928, the postponement of the tentative allocation of more than $6,000,000 that the Secretary of the Interior in carrying out a 10-year program proposes be expended within the next 10 years for power development and for construction of the Minidoka pumping unit, and in lieu of the department program the committee recommends $400,000 for the commencement of the main canal for the Minidoka extension gravity unit.

To sum up, the committee's program rejects immediate reclamation of new lands that are unsettled in harmony with the overwhelming sentiment of the Congress at this time. The committee's program provides supplemental water for lands that are now being inadequately served. The committee's program provides for reclaiming land under a gravity system where the supplemental water will cost approximately $35 per acre and where the water for new lands will cost approximately from $77 to $86 per acre against the department's recommendation leading to a project within the 10-year program where under the pumping system the acre cost will be probably not less than twice that amount and where the annual cost of maintenance will forever be vastly higher than the average cost of maintenance per acre upon the gravity unit lands. More than that, the committee has not sought to be arbitrary in imposing a program upon the department that may not be feasible, and while unquestionably the program is feasible, nevertheless the language carrying the appropriation provides that it shall be available not for construction alone but for investigation and construction.

THE PAYETTE DIVISION (BLACK CANYON UNIT)

Now, consider for a moment the Payette division of the Boise project. On yesterday there was some uncertainty as to whether or not this was not a new project because the name Payette division attached to it for the first time. I explained then that the name was one that appears in the bill for the first time, but has reference to the Black Canyon unit, which name was used last year and which name has been used in committee hearings for a number of years.

The Payette unit is not recommended in Budget estimates for 1928, and here, again, your committee, upon the basis of all the facts before it, felt that $400,000 had better be expended toward continuation of construction under this unit rather than for continuation of more extensive construction work in connection with the American Falls power-development program, which the department had recommended.

The Payette unit is not a new proposition. Some 20 years ago the lands within this unit were included within the Boise project. They were thrown open to settlement, and for the most part were acquired under the homestead laws. Many, and possibly most of the owners of the land, are within the immediate section of the country where the lands are located, though after undergoing failures through attempting to dry farm the lands they have realized that farming can be successfully carried on only through irrigation. Twenty years ago, and after the lands were entered upon by homesteaders, it was found that the water supply from the Boise River was not adequate for their reclamation. Even so, a tremendous moral obligation had been placed upon the Government through its having permitted the lands to be acquired by homesteaders with the prospective reclamation program within the then apparently near future. Some five years ago, recognizing this obligation and availing itself of an opportunity to join with a Carey Act project, whose lands were in high state of cultivation, but which project found itself compelled to renew its water storage, the Government undertook the construction of the Black Canyon Dam. This program was the subject of intensive study by the Reclamation Service five years ago.

Based upon this program, estimates came to the Congress from the Bureau of the Budget for moneys for the building of the Black Canyon Dam. For this purpose you have appropriated more than two millions of dollars in items of approximately one-half million each. The last considerable expenditure was for the development of electric power to be used in pumping water ultimately upon part of the Black Canyon lands, though immediately the opportunity presented itself of utilizing the water power for lands that within a few years will be under the Owyhee project which has been approved by the Congress.

This unit has been the subject of close examination by engineers of the Reclamation Service. It embraces an irrigable area of from 47,669 acres to 63,000 acres, the difference in the figures depending upon the final determination of whether some of the lands are too rolling to be successfully irrigated at this time.

At the highest cost per acre for the reclamation of these lands which has been estimated, the cost is $155.86, or in other words, less than the acre cost on project lands approved for reclamation in the Owyhee project across the line in Oregon and within the same immediate section of country, involving similar soil, similar climate, and similar conditions generally.

The program of reclamation will include the construction of storage reservoir, diversion canals, and possibly additional power development. If there can be any justification for the Government having expended more than $2,000,000 under a program recommended by the department and the Bureau of the Budget during the last five years in the construction of the Black Canyon Dam, we can not fail to justify appropriation for the continuation of the program that your committee has recommended. The only question is: Shall we continue with the program now, apply $400,000 to an unexpended balance of more than $100,000 from last year, a total of slightly more than $500,000 during the next fiscal year, or shall we stop on this project and permit $400,000 to be expended for continued power development at American Falls?

Again your committee was compelled to choose. I believe that not only the equities in the case touching those who were permitted to homestead the Black Canyon lands demand that their claims be recognized first, but that this policy is more nearly in line with the sentiment of the House touching lands that have been acquired under the homestead laws with the

understanding that they were to be reclaimed within the near future. Furthermore, I have not the slightest doubt that the unit cost for the construction program per acre and the maintenance cost will both be less than the construction cost and maintenance cost upon the lands that will come under the Minidoka pumping unit to which I have referred.

ISSUANCE OF PATENTS TO THOSE WHO SERVED IN WORLD WAR

The SPEAKER. The Chair lays before the House the following message from the Senate.

The Clerk read as follows:

Senate Resolution 293

IN THE SENATE OF THE UNITED STATES,
*December 13, 1926.*

*Resolved,* That the Secretary of the Senate be, and he is hereby, directed to return to the House of Representatives the enrolled bill (S. 4480) providing for the extension of the time limitations under which patents were issued in the case of persons who served in the armed forces of the United States during the World War, together with the engrossed bill, with the request that the Speaker of the House be authorized to rescind his action in signing the enrolled bill; that in the event such authority is granted, the House be, and it is hereby, respectfully requested to reconsider its vote on the passage of the bill and return the engrossed bill to the Senate.

Mr. VESTAL. Mr. Speaker, I ask that the resolution be taken from the Speaker's table and be considered immediately.

The SPEAKER. The gentleman from Indiana asks unanimous consent to take the resolution which has just been reported from the Clerk's desk from the Speaker's table and that it be considered immediately. Is there objection?

Mr. JACOBSTEIN. Mr. Speaker, I object.

Mr. VESTAL. Mr. Speaker, I present the following order which I send to the desk.

Mr. GARNER of Texas. Mr. Speaker, let me ask the gentleman from Indiana a question. Has the minority member of this committee been consulted?

Mr. VESTAL. The ranking member, Mr. LANHAM, I have consulted, and this action is satisfactory to him.

Mr. GARRETT of Tennessee. Is the gentleman asking unanimous consent for the consideration of this order, or is he presenting it as a matter of privilege?

Mr. VESTAL. I am offering the following order.

Mr. GARRETT of Tennessee. Is it being offered as a privileged matter?

The SPEAKER. It is a question of unanimous consent.

Mr. GARRETT of Tennessee. Let it be reported.

The SPEAKER. The Clerk will report the order.

The Clerk read as follows:

*Ordered,* That the Speaker be, and he hereby is, empowered and directed to strike his signature from the enrolled bill S. 4480, that the proceedings whereby said bill was passed be, and the same are hereby, vacated, and the engrossed bill be returned to the Senate, in accordance with the request of the Senate.

The SPEAKER. Is there objection to the present consideration of the order?

Mr. GARRETT of Tennessee. Mr. Speaker, reserving the right to object, which I do not suppose I shall do, because I do not know the reasons, I do not recall a request ever having come to the House just like this from the Senate. Of course, where a matter of legislation has not been completed and the Senate requests a return, we always do that as a matter of form and of courtesy. In this instance, however, the legislation seems to have been completed, even to the extent of the signature of the Speaker to the engrossed bill. I think perhaps it would be well for the gentleman from Indiana, under the reservation of the right to object, to explain to us just why this return is desired.

Mr. VESTAL. Mr. Speaker, the bill was passed by the Senate and passed by the House, but was not signed by either the Speaker or the President of the Senate and never has been signed by the President of the Senate. The Speaker of the House did sign the bill some few days ago. This is a Senate bill which was passed by the Senate and then passed by the House. Upon close investigation of the bill it seems as though the provisions of the bill are entirely too broad; that they are so broad that it might let in a lot of legislation that would not be proper legislation, and it was for that reason that the Senate committee held hearings and decided upon this course of action.

Mr. GARRETT of Tennessee. Has the House committee as a committee considered it?

Mr. VESTAL. The House committee as a committee has not considered the bill—that is, since this session opened.

Mr. GARRETT of Tennessee. Of course, Mr. Speaker, I recognize that there is a certain courtesy which must prevail between the two bodies in requests for return of uncompleted legislation, and always and without question as a rule it is responded to. This is quite unusual, it seems to me. I have never known of a piece of legislation advanced to this stage where such a request was made. I know nothing of the merits, but it seems to me this is a matter of legislation passed upon by both bodies. If it is because some one has merely changed his mind——

Mr. VESTAL. I will say to the gentleman from Tennessee the matter was not thoroughly considered by the Committee on Patents before the bill was passed. It was hurried legislation. It came over from the Senate and was really not given the consideration which ought to have been given. I want to be truthful about it, and after examining the bill I am sure the gentleman would say that this is legislation that ought not to be completed and passed.

Mr. GARRETT of Tennessee. The gentleman says the Committee on Patents, as a committee, has not considered this request, and the gentleman has conferred with the ranking minority member.

Mr. VESTAL. Yes.

Mr. GARNER of Texas. In view of the statement the gentleman has made, it does seem to me that the Committee on Patents ought to give this consideration. The statement has been made that they have never given that consideration, and in view of that fact it does seem to me this committee ought to have the opportunity at some time to view this piece of legislation and pass on it.

Mr. VESTAL. I do not mean to say the Committee on Patents did not give it some consideration. We did have a hearing, and I think the majority of the members of the committee were present at that time, but the hearing was a very short hearing, and it was right at the last days of the session when the matter came over here and was passed upon hurriedly.

Mr. CHINDBLOM. Will the gentleman yield?

Mr. VESTAL. I will.

Mr. CHINDBLOM. The bill originates in the Senate?

Mr. VESTAL. Yes. The bill has not been signed by the President or by the President of the Senate.

Mr. JACOBSTEIN. Will the gentleman yield. I happen to be interested in the bill.

Mr. VESTAL. Yes.

Mr. JACOBSTEIN. What will be the effect of the adoption of this resolution now?

Mr. VESTAL. It would be to withdraw the bill from both Houses.

Mr. JACOBSTEIN. It is the intention of the committee, then, to proceed on the merits?

Mr. VESTAL. And have the bill come before the committee again for further hearing.

Mr. GARNER of Texas. If I understand the situation of this legislation, if this order is passed the bill goes back to the Senate. It then goes back to the Senate committee just like it was, de novo, and begun all over again. The Senate committee will consider the bill and if the Senate passes the bill and sends it over here, it will be considered all over again. The House will have no further jurisdiction if this order is passed.

Mr. BLANTON. Mr. Speaker, reserving the right to object, this order which the gentleman proposes authorizes and directs the Speaker to do so-and-so. I wanted to suggest to the gentleman that that would be a bad precedent to establish; that this should be done after the Speaker is authorized and empowered to sign the bill, because the Speaker has signed this bill, an engrossed copy. I do not think this House should ever establish a precedent to compel the Speaker to recall a signature to a bill unless it is done with the approval of the Speaker. Of course, it may meet with the approval of this Speaker in this instance, but that is a bad precedent.

Mr. JACOBSTEIN. Mr. Speaker, will the gentleman permit me to ask him a question?

Mr. BLANTON. Yes.

Mr. JACOBSTEIN. As I understand it, this bill confers upon ex-service men a certain privilege with regard to the use of patents which otherwise they would not enjoy. What is it that has been discovered that is wrong in this bill?

Mr. VESTAL. There are no safeguards around certain provisions. It might open up an extension of patents to 50,000 men, and it makes a class that ought not to be given this special privilege without some safeguards surrounding it.

Mr. JACOBSTEIN. But it has reference to ex-service men who lost the right to the enjoyment of that patent while in the service.

Mr. VESTAL. The bill is all right if it had been more carefully drawn; but I am sure it ought not to pass in its present shape. I do not think any Member of this House would be in favor of passing this bill without proper safeguards.

Mr. BANKHEAD. Mr. Speaker, will the gentleman yield?

Mr. VESTAL. Yes.

Mr. BANKHEAD. It is asserted now by the gentleman that this is a very unwise bill in that it allows the gate to be thrown open to certain unfair advantages. Was it the Senate committee or the Senate or the House committee or the gentleman who discovered this defect? If it was not, who did?

Mr. VESTAL. It was discovered when it was too late.

Mr. GARNER of Texas. Who discovered it?

Mr. VESTAL. I am one of those who discovered it.

Mr. BLANTON. The purpose of this bill is to protect ex-service men in their rights?

Mr. VESTAL. Giving them advantage over others.

Mr. BLANTON. The gentleman is in favor of doing that?

Mr. VESTAL. Absolutely to an extent; but I do not think the gates ought to be thrown open to the extent that this bill throws them open.

Mr. BLANTON. The gentleman knows that if the Speaker withdraws his signature and the bill goes back to the Senate, as if it had never been passed, it will never pass, will it?

Mr. VESTAL. I would not say that.

Mr. BLANTON. But if objection is made here now this bill will go before the gentleman's committee for consideration or will it go to the President?

Mr. VESTAL. I think it will.

Mr. BLANTON. I am going to object and let it go to the President.

Mr. TILSON. I do not think the gentleman would be justified in saying this bill would go to the President without the signature of the President of the Senate. It must have the signature of the President of the Senate.

Mr. BLANTON. Can the President of the Senate refuse to put his signature to it when it has passed both Houses and has been engrossed and has the Speaker's signature to it? Let it go to the President and let him assume the responsibility for this bill which the Committee on Patents has not considered.

Mr. JACOBSTEIN. Will the gentleman permit another question? Would it not be easier later to amend this same bill than it would be for the ex-service men to get the thing through?

Mr. BLANTON. I object.

The SPEAKER. Objection is heard.

ALIEN PROPERTY

Mr. TILSON. Mr. Speaker, I ask unanimous consent that on Thursday, immediately after the reading of the Journal, it shall be in order to consider under the general rules of the House the bill H. R. 15009, being a settlement under the war claims act of 1917, generally known as the alien property bill.

The SPEAKER. The gentleman from Connecticut asks unanimous consent that on Thursday, immediately after the reading of the Journal, it shall be in order to consider under the general rules of the House the bill H. R. 15009. Is there objection?

Mr. FISH. I reserve the right to object.

Mr. GARRETT of Tennessee. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Iowa [Mr. GREEN] just what the status of the bill is now?

Mr. GREEN of Iowa. The report is not yet in. A unanimous report of the committee will be presented to-morrow.

Mr. GARRETT of Tennessee. I understood it was unanimous. The purpose of my question to the gentleman from Iowa is that notice may be had by Members, so that they can get hold of the bill and the report upon it as soon as possible.

I myself suggested to the gentleman from Connecticut the possibility of securing consideration by unanimous consent. To-day I have talked with some Members about it, and there seems to be no disposition to object, provided they can have long enough before the time for its consideration to make a study of the bill, and if it will be reported to-morrow, then that would make it available Wednesday morning.

Mr. GREEN of Iowa. There will be copies of the bill to-morrow and the report will be ready Wednesday morning.

Mr. GARRETT of Tennessee. Will the report be very long?

Mr. GREEN of Iowa. Of necessity it will be rather long; yes.

Mr. GARRETT of Tennessee. This is, of course, a pretty technical proposition and Members want time to study it. I assume that Thursday will give sufficient time, however, and I shall not object.

Mr. TILSON. If the gentleman from Tennessee will permit, that is really the purpose of asking this unanimous consent now, in order that the membership of the House may be advised as to just when this bill will be considered and also to set the time far enough away so we may be quite sure that the report will be printed and available for the use of the Members of the House. What I am asking is only what would be granted by the Committee on Rules, probably without question, upon a unanimous report from the Committee on Ways and Means.

Mr. BANKHEAD. I would like to ask a question. Has there been any tentative agreement between the chairman of the Ways and Means Committee and the ranking member on our side as to the time for debate and consideration of the bill?

Mr. GREEN of Iowa. I have taken up that subject, I will say to the gentleman, and have tentatively agreed, but not absolutely. I do not think there will be any trouble about that.

Mr. GARNER of Texas. I will say to the gentleman from Alabama that I have talked about the matter with the gentleman from Mississippi [Mr. COLLIER]. I do not expect to be here during the consideration of this bill. I have talked with the gentleman from Mississippi [Mr. COLLIER] and with the gentleman from Iowa [Mr. GREEN] about it and have suggested that we have at least four hours of general debate, two hours on a side.

Mr. BANKHEAD. That is probably as much as a rule would provide for.

Mr. GREEN of Iowa. It is.

Mr. FISH. Mr. Speaker, reserving the right to object, if this bill is to come up on Thursday, you can not tell in advance whether four hours will be sufficient. Shall we have an opportunity on Thursday to find out how much time will be required by those who want to oppose the bill?

Mr. GARNER of Texas. If the bill is taken up on Thursday under the general rules of the House and the gentleman from New York decides that four hours is not sufficient, he can object to four hours and ask that it be made five hours, six hours, or seven hours as the case may be. I understand that the gentleman from Connecticut is not now trying to set the time for general debate?

Mr. TILSON. I am not including that in my request.

Mr. GARNER of Texas. The gentleman from Connecticut is merely asking that this bill be considered under the general rules of the House and is giving notice that the bill will be taken up next Thursday morning.

Mr. FISH. I understand the situation, but I just wanted to bring out that point that there might be those in opposition to this bill who will require more time than could be given to them in four hours. I appreciate the fact that there is a unanimous report from the Committee on Ways and Means, but I want to say that I would like at least half an hour in opposition to the bill, and there may be others. If there are others, four hours would not be enough, and that is the point I wanted to develop in advance, so that when the bill is considered we shall have plenty of opportunity to discuss the bill.

Mr. TILSON. If my request is granted, before the House goes into the Committee of the Whole on Thursday it can then be determined what amount of debate is required.

Mr. BLANTON. And if the gentleman were to demand too much time, he might be confronted with a rule that would reduce it very much lower than what is being offered now.

Mr. FISH. I understand that very well, and I would much rather have it come up in this way, but at the same time I want the gentlemen to realize that this is important and there are some of us who are opposed to it.

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

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had passed the following resolution and bills of the following titles:

Senate Resolution 293

*Resolved*, That the Secretary of the Senate be, and he is hereby, directed to return to the House of Representatives the enrolled bill (S. 4480) providing for the extension of the time limitations under which patents were issued in the case of persons who served in the armed forces of the United States during the World War, together with the engrossed bill, with the request that the Speaker of the House be authorized to rescind his action in signing the enrolled bill; that in the event such authority be granted, the House be, and it is hereby, respectfully requested to reconsider its vote on the passage of the bill and return the engrossed bill to the Senate.

S. 452. An act for the relief of Richard Riggles; and

S. 3804. An act granting the consent of Congress to W. D. Comer and Wesley Vandercook to construct, maintain, and

operate a bridge across the Columbia River between Longview, Wash., and Rainier, Oreg., in which the concurrence of the House of Representatives was requested.

SENATE BILL REFERRED

Senate bill of the following title was taken from the Speaker's table and referred to the Committee on Claims:

S. 452. An act for the relief of Richard Riggles.

ENROLLED BILLS SIGNED

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that this day they presented to the President of the United States, for his approval, the following bills:

H. J. Res. 256. Relieving posts or camps of organizations composed of honorably discharged soldiers, sailors, or marines from liability on account of loss or destruction of obsolete rifles loaned by the War Department;

H. R. 7930. For the relief of the Broad Brook Bank & Trust Co.;

H. R. 9232. For the relief of Isaac A. Chandler; and

H. R. 12393. To amend paragraphs 1 and 2 of section 26 of the act of June 30, 1919, entitled "An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1920."

ADJOURNMENT

Mr. CRAMTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 19 minutes p. m.) the House adjourned until to-morrow, Tuesday, December 14, 1926, at 12 o'clock noon.

## COMMITTEE HEARINGS

Mr. TILSON submitted the following tentative list of committee hearings Tuesday, December 14, 1926, as reported to the floor leader by clerks of the several committees:

COMMITTEE ON APPROPRIATIONS

(10.30 a. m.)

Independent offices: State, Justice, Commerce, and Labor Departments appropriation bills.

(2 p. m.)

War Department appropriation bill.

COMMITTEE ON NAVAL AFFAIRS

(10.30 a. m.)

Comparative strength of the navies.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII.

Mr. MAGEE of New York: Committee on Appropriations. H. R. 15008. A bill making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1928, and for other purposes; without amendment (Rept. No. 1619). Referred to the Committee of the Whole House on the state of the Union.

## REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII.

Mr. WALTERS: Committee on Claims. H. R. 9063. A bill for the relief of Marie Yvonne Gueguinou; without amendment (Rept. No. 1620). Referred to the Committee of the Whole House.

## CHANGE OF REFERENCE

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 4343) granting an increase of pension to Harriett H. Rickenbacher; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 4678) for the relief of Elizabeth Wooten; Committee on War Claims discharged, and referred to the Committee on Claims.

A bill (H. R. 8558) granting a pension to Mary L. Thatch; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 11444) granting an increase of pension to Jennie I. Aldridge; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

## PUBLIC BILLS AND RESOLUTIONS

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

By Mr. MAGEE of New York: A bill (H. R. 15008) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1928, and for other purposes; committed to the Committee of the Whole House on the state of the Union.

By Mr. GREEN of Iowa: A bill (H. R. 15009) to provide for the settlement of certain claims of American nationals against Germany and of German nationals against the United States, for the ultimate return of all property of German nationals held by the Alien Property Custodian, and for the equitable apportionment among all claimants of certain available funds; to the Committee on Ways and Means.

By Mr. BYRNS: A bill (H. R. 15010) granting the consent of Congress to the highway department of Davidson County, Tenn., to construct a bridge across the Cumberland River; to the Committee on Interstate and Foreign Commerce.

By Mr. DRIVER: A bill (H. R. 15011) granting the consent of Congress to the Paragould-Hopkins Bridge Road improvement district of Greene County, Ark., to construct a bridge across the St. Francis River; to the Committee on Interstate and Foreign Commerce.

By Mr. DYER: A bill (H. R. 15012) to amend the act entitled "An act to extend the time for the completion of the municipal bridge approaches, and extensions or additions thereto, by the city of St. Louis, within the States of Illinois and Missouri," approved February 13, 1924; to the Committee on Interstate and Foreign Commerce.

By Mr. ROY G. FITZGERALD: A bill (H. R. 15013) to amend the act of July 3, 1926, granting pensions and increase of pensions to certain soldiers, sailors, and marines of the Civil and Mexican Wars, and to certain widows of said soldiers, sailors, and marines, and to widows of the War of 1812, and Army nurses, and for other purposes; to the Committee on Invalid Pensions.

By Mr. KING: A bill (H. R. 15014) granting the consent of Congress to the city of Quincy, State of Illinois, its successors and assigns, to construct and maintain and operate a bridge across the Mississippi River; to the Committee on Interstate and Foreign Commerce.

By Mrs. NORTON: A bill (H. R. 15015) granting pensions and increase of pensions to widows and former widows of certain soldiers, sailors, and marines of the Civil War, and for other purposes; to the Committee on Invalid Pensions.

By Mr. BRUMM: A bill (H. R. 15016) to authorize the purchase of a post-office site at Tamaqua, Schuylkill County, Pa., subject to mineral reservations; to the Committee on Public Buildings and Grounds.

By Mr. McDUFFIE: A bill (H. R. 15017) granting the consent of Congress to the St. Louis-San Francisco Railway Co. to construct, maintain, and operate a railroad bridge across the Warrior River at or near Demopolis, Ala.; to the Committee on Interstate and Foreign Commerce.

By Mr. SINNOTT (departmental request): A bill (H. R. 15018) validating certain applications for and entries of public lands; to the Committee on the Public Lands.

By Mr. SUMMERS of Washington: A bill (H. R. 15019) authorizing and providing for the constructing of the Columbia Basin irrigation project; to the Committee on Irrigation and Reclamation.

By Mr. COCHRAN: A bill (H. R. 15020) to amend paragraph 1674 of the tariff act of 1922; to the Committee on Ways and Means.

By Mr. HAYDEN: A bill (H. R. 15021) to authorize oil and gas mining leases upon unallotted lands within Executive-order Indian reservations; to the Committee on Indian Affairs.

By Mr. LaGUARDIA: Joint resolution (H. J. Res. 302) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. O'CONNOR of Louisiana: Resolution (H. Res. 333) providing for the consideration of H. R. 12931, to provide for the maintaining, promoting, and advertising the International Trade Exhibition; to the Committee on Rules.

By Mr. LaGUARDIA: Resolution (H. Res. 334) requesting the Department of State for certain information; to the Committee on Foreign Affairs.

## PRIVATE BILLS AND RESOLUTIONS

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

By Mr. ALDRICH: A bill (H. R. 15022) granting an increase of pension to Catherine McGovern; to the Committee on Invalid Pensions.

By Mr. ALLEN: A bill (H. R. 15023) granting an increase of pension to Jennie P. McClanahan; to the Committee on Invalid Pensions.

By Mr. BEERS: A bill (H. R. 15024) granting an increase of pension to Nancy Rohrback; to the Committee on Invalid Pensions.

By Mr. BOWLES: A bill (H. R. 15025) granting an increase of pension to Bridget M. Bolton; to the Committee on Invalid Pensions.

By Mr. BRAND of Ohio: A bill (H. R. 15026) granting an increase of pension to Lena Saxton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15027) granting an increase of pension to Maggie Morris; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15028) granting an increase of pension to Mary F. Robinson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15029) granting an increase of pension to Mary E. Bradeen; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15030) granting an increase of pension to Amanda J. Worrell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15031) granting an increase of pension to Elizabeth Walters; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15032) granting a pension to Mary Russell; to the Committee on Pensions.

Also, a bill (H. R. 15033) granting an increase of pension to Sciota Barry; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15034) granting an increase of pension to Sarah E. Howard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15035) granting an increase of pension to Maud Hanna; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15036) granting an increase of pension to Martha Witt; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15037) granting an increase of pension to Jennie P. Alexander; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15038) granting an increase of pension to Mary Jane Ream; to the Committee on Invalid Pensions.

By Mr. SWEET: A bill (H. R. 15039) granting an increase of pension to Margaret S. Thayer; to the Committee on Invalid Pensions.

By Mr. BRUMM: A bill (H. R. 15040) granting a pension to Hattie G. Dickey; to the Committee on Pensions.

By Mr. CANFIELD: A bill (H. R. 15041) granting a pension to Alexander Stevenson; to the Committee on Invalid Pensions.

By Mr. COCHRAN: A bill (H. R. 15042) granting an increase of pension to Mary Anderson; to the Committee on Invalid Pensions.

By Mr. COOPER of Wisconsin: A bill (H. R. 15043) granting an increase of pension to Catherine L. Viney; to the Committee on Invalid Pensions.

By Mr. DAVILA: A bill (H. R. 15044) for the relief of Fernando Montilla; to the Committee on the Post Office and Post Roads.

By Mr. DAVENPORT: A bill (H. R. 15045) granting a pension to Eva Leotta Prime; to the Committee on Pensions.

By Mr. DICKINSON of Missouri: A bill (H. R. 15046) granting an increase of pension to Cynthia Jane Currier; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15047) granting a pension to Sarah M. Dickinson; to the Committee on Invalid Pensions.

By Mr. DREWRY: A bill (H. R. 15048) providing for the promotion of Lieut. Commander Richard E. Byrd, United States Navy, retired, and awarding to him a congressional medal of honor; to the Committee on Naval Affairs.

Also, a bill (H. R. 15049) providing for the promotion of Floyd Bennett, aviation pilot, the United States Navy, and awarding to him a congressional medal of honor; to the Committee on Naval Affairs.

By Mr. FAUST: A bill (H. R. 15050) granting an increase of pension to Sarah E. Malott; to the Committee on Invalid Pensions.

By Mr. FLETCHER: A bill (H. R. 15051) granting a pension to Daisy A. Barnhart; to the Committee on Pensions.

By Mr. FUNK: A bill (H. R. 15052) for the relief of Frank H. Little; to the Committee on Naval Affairs.

By Mr. FAIRCHILD: A bill (H. R. 15053) granting a pension to Harriet M. Lester; to the Committee on Invalid Pensions.

By Mr. GIFFORD: A bill (H. R. 15054) granting a pension to George I. Luce; to the Committee on Pensions.

By Mr. GLYNN: A bill (H. R. 15055) granting an increase of pension to Margaret A. Gaynor; to the Committee on Invalid Pensions.

By Mr. HAUGEN: A bill (H. R. 15056) granting an increase of pension to Hannah M. Bellows; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15057) granting an increase of pension to Lucy E. Kenyon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15058) granting an increase of pension to Louisa M. Peeper; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15059) granting an increase of pension to Carrie Sagen; to the Committee on Invalid Pensions.

By Mr. JOHNSON of Illinois: A bill (H. R. 15060) granting an increase of pension to Elizabeth Close; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15061) granting an increase of pension to Elizabeth Graff; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15062) granting a pension to Jennie Buck; to the Committee on Invalid Pensions.

By Mr. KEARNS: A bill (H. R. 15063) granting an increase of pension to Lewvina Hoffer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15064) granting an increase of pension to Mary Johnson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15065) granting an increase of pension to Edward D. Warner; to the Committee on Pensions.

By Mr. KIEFNER: A bill (H. R. 15066) granting a pension to John Shelton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15067) granting a pension to Jacob Masters; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15068) granting a pension to Anthony Shell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15069) granting a pension to Eli Lutes; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15070) granting a pension to Nehemiah R. Ray; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15071) granting a pension to Benjamin F. Winters; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15072) granting a pension to Thomas Kinder; to the Commtitee on Invalid Pensions.

Also, a bill (H. R. 15073) granting a pension to Claiborn D. Richards; to the Committee on Invalid Pensions.

By Mr. KNUTSON: A bill (H. R. 15074) granting a pension to Mary Fenske; to the Committee on Pensions.

By Mr. LONGWORTH: A bill (H. R. 15075) granting a pension to Carrie P. Spencer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15076) granting an increase of pension to Hannah Schuler; to the Committee on Invalid Pensions.

By Mr. LUCE: A bill (H. R. 15077) for the relief of James Henry Payne; to the Committee on Military Affairs.

Also, a bill (H. R. 15078) to refund to Harold R. Keller income tax erroneously and illegally collected; to the Committee on Claims.

Also, a bill (H. R. 15079) for the relief of William Mark Noble, jr.; to the Committee on World War Veterans' Legislation.

By Mr. CHALMERS: A bill (H. R. 15080) granting a pension to Aristeen Arnold; to the Committee on Invalid Pensions.

By Mr. MONTAGUE: A bill (H. R. 15081) to extend the benefits of the World War veterans' act, 1924, and acts amendatory thereof, to Thomas Beverly Campbell; to the Committee on World War Veterans' Legislation.

Also, a bill (H. R. 15082) granting an increase of pension to Laura H. Marshall; to the Committee on Invalid Pensions.

By Mr. MOREHEAD: A bill (H. R. 15083) granting an increase of pension to Francis H. P. Showalter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15084) granting a pension to Rosa E. Postel; to the Committee on Invalid Pensions.

By Mr. MORGAN: A bill (H. R. 15085) granting a pension to Clifton E. Line; to the Committee on Invalid Pensions.

By Mr. MURPHY: A bill (H. R. 15086) granting an increase of pension to Harriet J. Cale; to the Committee on Invalid Pensions.

By Mr. NELSON of Maine: A bill (H. R. 15087) granting an increase of pension to Catherine M. Brown; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15088) granting an increase of pension to Alice M. Hassell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15089) granting an increase of pension to Lizzie Meader; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15090) granting an increase of pension to Lottie L. Noble; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15091) granting an increase of pension to Abbie J. Over; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15092) granting an increase of pension to Wallace W. Stewart; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15093) granting an increase of pension to Alice M. Whitten; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15094) granting an increase of pension to Louise M. Wood; to the Committee on Invalid Pensions.

By Mr. PATTERSON: A bill (H. R. 15095) granting an increase of pension to Mary E. Breyer; to the Committee on Invalid Pensions.

By Mr. PHILLIPS: A bill (H. R. 15096) for the relief of Albert Power; to the Committee on Claims.

By Mr. RAMSEYER: A bill (H. R. 15097) granting an increase of pension to Nancy E. Hazlewood; to the Committee on Invalid Pensions.

By Mr. SEARS of Florida: A bill (H. R. 15098) granting an increase of pension to Nancy A. Shields; to the Committee on Invalid Pensions.

By Mr. SNELL: A bill (H. R. 15099) granting an increase of pension to Isabelle D. Vrooman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15100) granting an increase of pension to Jane A. Shampine; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15101) granting an increase of pension to Mary J. Langlois; to the Committee on Invalid Pensions.

By Mr. SUMMERS of Washington: A bill (H. R. 15102) granting an increase of pension to Alice Jones; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Colorado: A bill (H. R. 15103) granting an increase of pension to Mary Miller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15104) granting an increase of pension to Belle Cannon; to the Committee on Pensions.

By Mr. THOMAS: A bill (H. R. 15105) granting an increase of pension to Eliza L. Hastings; to the Committee on Invalid Pensions.

By Mr. TIMBERLAKE: A bill (H. R. 15106) granting a pension to Anna M. E. Spotts; to the Committee on Invalid Pensions.

By Mr. TREADWAY: A bill (H. R. 15107) granting an increase of pension to Mary J. Curtin; to the Committee on Invalid Pensions.

By Mr. UNDERHILL: A bill (H. R. 15108) for the relief of Capt. Ellis E. Haring and E. F. Batchelor; to the Committee on Claims.

Also, a bill (H. R. 15109) granting an increase of pension to Mary E. Learned; to the Committee on Invalid Pensions.

By Mr. VINCENT of Michigan: A bill (H. R. 15110) granting a pension to Leona Scott; to the Committee on Invalid Pensions.

By Mr. WELCH of California: A bill (H. R. 15111) for the relief of Rawley Clay Allen; to the Committee on Naval Affairs.

By Mr. WILLIAMSON: A bill (H. R. 15112) granting an increase of pension to Nora Furey; to the Committee on Pensions.

By Mr. WOLVERTON: A bill (H. R. 15113) granting an increase of pension to Mary P. Crawford; to the Committee on Invalid Pensions.

By Mr. WOODRUFF: A bill (H. R. 15114) granting a pension to Bert E. Corbett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15115) granting an increase of pension to Nancy E. Davis; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15116) granting an increase of pension to Annie Kehoe; to the Committee on Invalid Pensions.

By Mr. WRIGHT: A bill (H. R. 15117) granting a pension to Monroe C. Burdeshaw; to the Committee on Pensions.

By Mr. JOHNSON of Illinois: Resolution (H. Res. 330) authorizing payment of six months' salary and funeral expenses to Josephine Antoine, on account of the death of Julius Antoine, late employee of the House of Representatives; to the Committee on Accounts.

By Mr. BEEDY: Resolution (H. Res. 331) appointing a clerk to the Committee on Mileage; to the Committee on Accounts.

By Mr. CAMPBELL: Resolution (H. Res. 332) appointing an assistant clerk to the Enrolled Bills Committee; to the Committee on Accounts.

## PETITIONS, ETC.

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

4328. By Mr. DICKINSON of Missouri: Petition against compulsory Sunday observance bills (H. R. 7179 and 7822); to the Committee on the District of Columbia.

4329. By Mr. W. T. FITZGERALD: Memorial of 300 members of the Alturian Club, Troy, Ohio, indorsing the Sheppard-Towner bill, and requesting that the new appropriation be passed; to the Committee on Appropriations.

4330. By Mr. GALLIVAN: Petition of American Federation of Labor, William Green, president, American Federation of Labor Building, Washington, D. C., recommending early and favorable consideration of House bill 9498, which provides compensation for employees injured and dependents of employees killed in certain maritime employment, and that such compensation shall be paid by the United States Employees' Compensation Commission; to the Committee on the Judiciary.

4331. By Mr. KEARNS: Petition against compulsory Sunday observance; to the Committee on the District of Columbia.

4332. By Mr. O'CONNELL of Rhode Island (by request): Petition of certain bond owners, stockholders, and creditors of the Alabama & New Orleans Transportation Co., requesting a hearing and other relief in the case of Harriet H. Gallagher, petitioner, v. Alabama & New Orleans Transportation Co., a corporation, defendant, now pending in the United States District Court for the District of Massachusetts; to the Committee on the Judiciary.

4333. By Mr. O'CONNELL of New York: Petition of Lieut. Col. Fred M. Waterbury, State ordnance officer, New York National Guard, favoring marksmanship matches for 1927, and also an appropriation of not less than $200,000 for the United States to carry on with their support of civilian rifle clubs throughout the United States made necessary now that the war stock ammunition is exhausted; to the Committee on Military Affairs.

4334. Also, petition of Hon. John C. McKenzie, of Elizabeth, Ill., expressing his earnest hope that the present Congress will enact proper legislation for the leasing of Muscle Shoals; to the Committee on Military Affairs.

4335. Also, petition of the National Committee of One Hundred, favoring the passage of House bill 10433 and Senate bill 3580; to the Committee on Agriculture.

4336. Also, petition of the American Drug Manufacturers' Association, favoring the passage of House bill 8997, parcel post with Cuba; to the Committee on Ways and Means.

4337. Also, petition of the American Drug Manufacturers' Association, that the Congress of the United States be urged to reduce at the forthcoming session the increased burden of taxation placed upon corporations by the revenue act of 1926; to the Committee on Ways and Means.

4338. Also, petition of Sons of Norway, District Lodge No. 2, Tacoma, Wash., that Congress rescind the portion of section 11 of the immigration law providing for the revision of quotas to take effect July 1, 1927, and that the present quota distribution, based on the census of 1890, be retained; to the Committee on Immigration and Naturalization.

4339. By Mr. TINCHER: Petition of sundry citizens of St. John, Kans., urging the enactment of legislation granting increased pensions to Indian wars veterans, their widows, and dependents; to the Committee on Pensions.

# SENATE

TUESDAY, *December 14, 1926*

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father, we thank Thee for the sunlight of the morning, and we do ask Thee that we may realize the brightness of Thy presence in each heart to-day. May we not look upon life as a disappointment, but look upon it rather as a grand opportunity for service. So help us, we beseech of Thee, to live and love and serve, and always with an eye single to Thy glory and the advancement of human good. We ask in Jesus' name. Amen.

The Chief Clerk proceeded to read the Journal of yesterday's proceedings when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

### MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 12316) to amend the Panama Canal act and other laws applicable to the Canal Zone, and for other purposes, requested a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PARKER, Mr. DENISON, and Mr. BARKLEY were appointed managers on the part of the House at the conference.

### CALL OF THE ROLL

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

The VICE PRESIDENT. The clerk will call the roll.