

administration does not warrant the retention of the Federal ballot procedures. The burden is now on the States to adopt the recommendations in this bill and any other procedures which will afford the maximum opportunity of voting to servicemen and certain others absent from their States.

Mr. REVERCOMB. Mr. President, I do not wish to prolong the discussion; but as a member of the Committee on Privileges and Elections, of which the able Senator from Rhode Island is chairman, I wish to say that the bill was unanimously approved by the committee, and was reported to the Senate with the consent of all members of the committee.

The bill does away with the Federal ballot, which was the most objectionable feature of the bill which was previously passed. It is a suggestion to the States to enact laws to permit those in the armed services and in the merchant marine to vote in absentia. I join the chairman of the Committee on Privileges and Elections in asking that the bill be passed.

The PRESIDENT pro tempore. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H. R. 5644) was ordered to a third reading, read the third time, and passed.

The PRESIDENT pro tempore. Without objection, Senate bill 1876 will be indefinitely postponed.

BROADCASTING OF NONCOMMERCIAL CULTURAL OR EDUCATIONAL PROGRAMS—CONFERENCE REPORT

Mr. JOHNSON of Colorado. Mr. President, I move that the Senate proceed to the consideration of the conference report on Senate bill 63.

The PRESIDENT pro tempore. The bill will be stated by title for the information of the Senate.

The CHIEF CLERK. A bill (S. 63) to amend the Communications Act of 1934, as amended, so as to prohibit interference with the broadcasting of noncommercial cultural or educational programs.

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

Mr. TAYLOR. Mr. President—

The PRESIDENT pro tempore. The motion is not debatable.

Mr. JOHNSON of Colorado. However, the question of the adoption of the conference report will be debatable.

The PRESIDENT pro tempore. This is merely a motion to proceed to consider the conference report.

The motion was agreed to; and the Senate proceeded to consider the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 63) to amend the Communications Act of 1934, as amended, so as to prohibit interference with the broadcasting of noncommercial cultural or educational programs.

Mr. JOHNSON of Colorado. Mr. President, I desire to make a brief statement with respect to the conference report.

Mr. REVERCOMB. Mr. President, will the Senator yield for a brief statement on another subject?

Mr. JOHNSON of Colorado. I yield provided I do not lose the floor.

The PRESIDENT pro tempore. The Chair will say to the Senator from Idaho that the conference report is now before the Senate and is debatable. Does the Senator from Colorado desire the floor.

Mr. TAYLOR. I wish to discuss the conference report.

Mr. JOHNSON of Colorado. Mr. President, the Senator from West Virginia asked that I yield; and I yielded to the Senator from West Virginia with the understanding that I would not lose the floor.

The PRESIDENT pro tempore. The Chair did not understand.

VOLUNTARY ENLISTMENTS IN THE ARMY

Mr. REVERCOMB. Mr. President, I thank the Senator from Colorado for yielding to me for a statement.

I wish to invite the attention of the Senate to some information which I received this morning, and which I think should be given to the Senate at this time. In a very few days I take it there will be brought to the floor of the Senate the question of whether or not the selective-service law should be extended beyond May 15, and if it is extended, for what length of time the extension should be made.

The Senate is well aware that under a law enacted in October 1945, voluntary enlistments in the Army have been proceeding at a rate which has been very satisfactory to everyone who is interested in building a volunteer army for this country. But now in the face of that good record we find that the Army has suddenly, and without apparent reason, issued an order that plainly has the effect of slowing up and retarding enlistments.

I learned this morning—and that information has been confirmed by the Army—that a month ago the Army raised the passing grade in what is known as the Army general competency test from a mark of 59 to a mark of 70. Why this step was taken I do not know, but its effect has been that the number of volunteers accepted into the Army of the United States has dropped since the change was made. Prior to that time an average of more than 20,000 men a week were being accepted into the Army as volunteers. Since the raising of the passing mark from 59 to 70 the average has dropped to about 17,000 a week. If this change had not been made, it is my belief that the voluntary enlistments each week would have exceeded the prior average of 20,000. I cannot understand why the Army, if it really wants volunteers, should change the passing grade from 59 to 70. Boys were taken in the draft during the war, and passed at a grade of 59. They were then considered competent by the Army to fight the battles of this country on the basis of a passing mark of 59. If competent to serve in time of actual war, certainly they are competent for a peacetime army. Furthermore, for months—from October last until a month ago—they were taken

in as volunteers on a passing grade of 59. The whole effect of this order by the Army has been to lessen the number taken into the Army from those who seek to serve there as volunteers.

This action has a very direct bearing on the question of the extension of the draft, because if it can be shown that a volunteer army can be raised sufficient to meet the calls upon the armed forces of this country, there is no need to extend the draft. It is a strange act on the part of the Army. In the midst of the consideration of extension of the selective-service law, the Army raises the passing mark which was used throughout the war, and as a result the number of voluntary enlistments has been reduced.

I hope the Senate will bear this fact in mind in considering any extension of the draft. I give this information to the Members of the Senate today so that they may have before them this act of our Army in raising the passing mark for volunteers, with the definite result of cutting down the number of enlistments and consequently affecting this very important subject. I maintain that we should have an Army of volunteers, rather than one of impressed service, and that no act should be countenanced or permitted that will interfere with the speediest possible creation of a completely volunteer Army and Navy.

BROADCASTING OF NONCOMMERCIAL CULTURAL OR EDUCATIONAL PROGRAMS—CONFERENCE REPORT

The Senate resumed consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 63) to amend the Communications Act of 1934, as amended, so as to prohibit interference with the broadcasting of noncommercial cultural or educational programs.

Mr. JOHNSON of Colorado. Mr. President, Senate bill 63, as it passed the Senate, was designed to eliminate certain practices which have prevented broadcasting of noncommercial educational or cultural programs presented by accredited tax-exempt educational institutions.

Hearings were held by the House Committee on Interstate and Foreign Commerce in February and March of last year on Senate bill 63 and on House bill 1648, a companion bill introduced in the House. It was developed at those hearings that certain other coercive practices affecting radio broadcasting, equally as objectionable as those at which the Senate bill was aimed, were being engaged in by Mr. Petrillo. As a result, the committee determined that more extensive legislation was necessary, held such hearings, and wrote a new bill, House bill 5117, the text of which was substituted on the House floor as an amendment to Senate bill 63.

The conferees, by a unanimous vote, have agreed upon a substitute measure which, in most respects, is identical with the House amendment.

The conference agreement would add a new section to title V of the Communications Act of 1934, making it unlawful to willfully coerce, compel, or con-

strain, or to attempt to coerce, compel, or constrain, a radio-station licensee to do certain acts or things specified in the bill. The acts or things which it is made unlawful to coerce, compel, or constrain a licensee to do are as follows:

First. To employ or agree to employ, in connection with the conduct of the broadcasting business of the licensee, any person or persons in excess of the number needed by the licensee.

Second. To pay or give or agree to pay or give any money or other thing of value in lieu of giving, or on account of failure to give, employment to any person or persons, in connection with the broadcasting business of the licensee, in excess of the number of employees needed by the licensee.

Third. To pay or agree to pay more than once for services performed in connection with the broadcasting business of the licensee.

Fourth. To pay or give or agree to pay or give any money or other thing of value for services, in connection with the conduct of the broadcasting business of the licensee, which are not to be performed.

Fifth. To refrain, or agree to refrain, from broadcasting or from permitting the broadcasting of a noncommercial educational or cultural program in connection with which the participants receive no money or other thing of value for their services, other than their actual expenses, and such licensee neither pays nor gives any money or other thing of value on account of the broadcasting of such program.

Sixth. To refrain, or agree to refrain, from broadcasting or permitting the broadcasting of any radio communication originating outside the United States.

The conference agreement also contains provisions relating to the use by broadcasters of recording and transcriptions. These provisions make it unlawful to coerce, compel, or constrain—or to attempt to coerce, compel, or constrain—a radio station licensee or other person:

First. To pay or agree to pay any exaction for the privilege of, or on account of, producing, preparing, manufacturing, selling, buying, renting, operating, using, or maintaining recordings, transcriptions, or mechanical, chemical, or electrical reproductions, or any other articles, equipment, machines, or materials, used or intended to be used in broadcasting or in the production, preparation, performance, or presentation of programs for broadcasting.

Second. To accede to or impose any restriction upon such production, preparation, manufacture, sale, purchase, rental, operation, use, or maintenance, if such restriction is for the purpose of preventing or limiting the use of such articles, equipment, machines, or materials in broadcasting.

Third. To pay or agree to pay any exaction on account of the broadcasting, by means of recordings or transcriptions, of a program previously broadcast, payment having been made, or agreed to be made for the services actually rendered in the performance of such program.

The House amendment contained a provision to the effect that nothing con-

tained in the above provisions should be construed to make unlawful the enforcement or attempted enforcement, by means lawfully employed, of any contract right or legal obligation. This provision was retained in the conference agreement, and, at the insistence of the Senate conferees, was rephrased so as to make it absolutely clear that the rights protected included those arising under contracts entered into in the future, as well as under those now in existence.

Willful violation of these provisions would be punishable as a misdemeanor and would carry penalties of imprisonment not more than one year, or fine not to exceed \$1,000, or both,

Mr. President, I should like to read an excerpt from the House committee report which I believe states correctly and concisely the purposes and effects of this measure:

This subsection does not prohibit the right to strike or to withhold services, or force individuals to work against their will or desire. It will place no limitation whatever on the use of strikes for the accomplishment of legitimate objectives, such as wage increases or better working conditions. The subsection does not prohibit strikes as such. What it does do is to prohibit the accomplishment, by actual or attempted coercion, compulsion, or constraint, of certain unconscionable and wrongful objectives, regardless of the means used. A strike or threat of a strike is one method by which it is possible to exert or attempt to exert such coercion, compulsion of constraint, and, if it is the method used, the wrongful character of the offense is the same as though other means had been used.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a portion of the general statement contained in the report of the House Committee on Interstate and Foreign Commerce.

There being on objection, the portion of the statement in the report (No. 1508) was ordered to be printed in the RECORD, as follows:

PROHIBITING CERTAIN COERCIVE PRACTICES
AFFECTING RADIO BROADCASTING

GENERAL STATEMENT

For some years the radio broadcasters of the Nation have been harassed by ever-increasing extortionate and racketeering demands to which they have been forced to yield by coercive methods. The tributes thus exacted are now measured by millions of dollars.

These exactions have not been in compensation for services performed for the broadcasters or in settlement of any obligations due from them. They have not been made for the enforcement of any rights due those who demanded them.

The object of this proposed legislation is to put an end to these exactions for the protection of the broadcasting industry and for the integrity of the Nation.

EVILS AT WHICH DIRECTED

Broadcasting has become one of the great industries of our time. It is now one of the chief means of communication of our Nation. It is one of our greatest implements for free speech. It promptly carries news to the remotest sections of the country. It is a forum for the discussion of our political, economic, and social problems. It is a source of information, education, entertainment, music, culture, and a vehicle for the messages of all religions, utilized by practically every home in the Nation.

In recent years the broadcasting industry has been subjected to extortionate demands enforced by coercive methods which increasingly threaten to restrict and handicap it in performing its rightful functions to the Nation.

Those making these demands, empowered by organized groups, not only have exacted tributes from the broadcasters but have assumed and exerted the power to say what shall and shall not be communicated over the radio. True, they have limited their dominations and demands to purposes which serve their particular groups, but nevertheless they have set a pattern for a like power of private control exerted for mercenary purposes over other phases of the broadcasting industry of the Nation. The same power exercised for other purposes, if permitted, might make the right of free speech only a name and establish censorship of broadcasting for private gain.

Those who make these demands subordinate the rights of the people of the Nation to an untrammelled broadcasting service to their own mercenary purposes. They in effect say to the broadcasters, and say to the makers of recordings, "You must pay this tribute or we will not permit you to give this service to the Nation."

Among other things, the following demands upon the broadcasting industry have been made in recent years: That broadcasters employ persons in excess of the number wanted; that in lieu of failure to employ such persons the broadcaster should pay to the federation sums of money equivalent to or greater than funds required for the employment of members of the federation; that payments for services already performed and fully paid for should be repeated; that payments should be made for services not performed; that broadcasters should refrain from broadcasting noncompensated, noncommercial educational or cultural programs; that broadcasters should refrain from broadcasting musical programs of foreign origin; that tributes should be paid for using recordings, transcriptions, and other materials used for broadcasting; that restrictions should be placed on the manufacture and use of recordings or transcriptions for the purpose of restricting or preventing the use of such materials for broadcasting; that tributes should be paid for recordings previously paid for; that dual orchestras should be employed for a single broadcast over two or more outlets; that over 400 small broadcast stations in the country having no live orchestras would be compelled to employ such orchestras; that the use of voluntary noncompensated orchestras be barred from broadcasts unless an orchestra of the Federation of Musicians were also employed or that the union was paid an equivalent or greater amount than the regular charge for a federation orchestra.

Some of these demands began several years ago but in recent years they have become more frequent and for enlarged purposes and amounts. These boycotts and strikes and threats have coerced compliance with a number of these demands, with pending demands now being greater than ever before. The amount of money extorted from the broadcasting industry by these methods, without moral right, has reached millions of dollars in amount and if demands now pending were granted it would, by these racketeering and extortion methods, require the broadcasting industry to pay tribute probably much in excess of \$20,000,000 a year for peace against these boycotts and threats.

The broadcasting industry has been surrendering to these demands for tribute to avoid the greater losses that would result from failure to comply.

MORAL QUALITY OF PRACTICES JUSTIFIES
PENALIZATION

Under the terms of this bill certain specified types of coercive practices and demands

are made unlawful. These prohibited practices are made misdemeanors and punishable as such.

The practices thus made unlawful are those directly affecting the broadcasting industry. By specific provisions of the bill it is not to be held to make unlawful the enforcement or attempted enforcement, by means lawfully employed, of any contract right or legal obligation.

The perpetration of the offenses penalized by this bill involve moral turpitude akin to that of larceny, embezzlement, the acquisition of another's property by false pretenses, racketeering, and extortion. They are not within the legitimate activities of any organized association of individuals for the cooperative purpose of their accomplishment.

The right to strike for a lawful purpose cannot be twisted into a right to combine together to commit crimes.

The moral quality of the offenses defined in the bill fully justifies their penalization.

These extortionate exactions from the broadcasting industry have been and are being accomplished by means of threats, intimidation, and coercive power of boycotts and strikes and threats of boycotts and strikes.

The practices proposed to be prohibited by this legislation are to prevent only the unlawful acts as defined in this bill. A strike is a privilege or right exercised for lawful purposes. The law does not contemplate that strikes shall be used as a cloak for the commission of crimes. The provisions of this bill define these unlawful practices and penalize their perpetration.

The restrictions imposed are not a limitation upon the legitimate activities of any association or combination of individuals. There is no more sanctity in crime committed by a combination of individuals than by an individual perpetrator.

POWER AND DUTY OF CONGRESS

Congress clearly has the power and the duty of protecting the public against such exactions.

The greatest exponent of Anglo-Saxon law declared that a law is a rule of conduct prescribed by the supreme power in the state commanding what is right and prohibiting what is wrong. The first fundamental under this approach is as to whether or not the act to be prohibited is wrong. In view of the record that has been made the answer to that question cannot be one of doubt. Conceding these practices are of such moral quality as to deserve condemnation as unlawful, the right and duty of Congress to suppress them are equally clear.

This bill provides no unjust limitation on the right to strike. The law recognizes the right to strike for lawful purposes and in a lawful manner. The right to strike should be exercised as other rights of the citizen. We have the right of free speech but that is not a justification for slander. We have the right to bear arms but that is not a justification of murder. Any person may properly organize for lawful purposes but criminal purposes are beyond their legitimate function.

A DISSERVICE TO LABOR

The offenses committed in the name of the American Federation of Musicians are a great disservice to legitimate labor organizations as well as to the public.

The situation presented by this legislation should call for the support of all branches of organized labor to give their condemnation to such outrageous practices committed in the name of labor. Legitimate labor organizations cannot afford to give their condonation to such practices or approve of them by assuming their defense.

It is incredible to believe that in the long run such practices as those hereby inhibited can rebound to the credit or advantage of any organization which yields itself to these sordid methods.

Mr. JOHNSON of Colorado. Mr. President, with that brief analysis of the measure, I am ready to answer any questions or to attempt to clarify any portions of the proposed legislation about which inquiry may be made.

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

Mr. JOHNSON of Colorado. I yield.

Mr. BALL. Can the Senator from Colorado inform us whether subsection (b) (1) would in effect outlaw the present contract or any attempt to enforce the present contract between ASCAP and the broadcasters, by which, for the use of compositions of the members, the stations pay a certain royalty?

Mr. JOHNSON of Colorado. No. If the Senator from Minnesota will refer to paragraph (c) he will find the following language:

(c) The provisions of subsection (a) or (b) of this section shall not be held to make unlawful the enforcement or attempted enforcement, by means lawfully employed, of any contract right heretofore or hereafter existing or of any legal obligation heretofore or hereafter incurred or assumed.

The effect of that language, of course, is to validate existing contracts.

Mr. BALL. Yes; the effect of the language is to validate existing contracts. As the Senator knows, some years ago the broadcasters had a row with ASCAP, and we heard no ASCAP music on the air for several weeks. When the contract expires, if ASCAP refuses to renew it, will the provisions of the conference report permit the broadcasters to use, without violating the law, the recordings of the compositions which have been copyrighted by ASCAP?

Mr. JOHNSON of Colorado. Is the Senator referring to the recordings which were made under the old agreement, or under a new agreement?

Mr. BALL. I am talking about a new agreement. When the present agreement expires, if the broadcasters refuse to renew it, would this measure permit them to use ASCAP material without paying a fee?

Mr. JOHNSON of Colorado. It would not permit any violation of the provisions of the old contract. With reference to any new contract, the following language is provided:

It shall be unlawful * * * to coerce, compel, or constrain, or attempt to coerce, compel, or constrain a licensee or any other person—

And so forth. That is the language, in part, of section 506 (b). The new contract would be subject to those terms, and that is all.

Mr. BALL. It seems to me that the members of ASCAP would be handicapped in negotiating a new contract, because the broadcasters would be completely free to use any recordings of any ASCAP copyrighted material.

Mr. JOHNSON of Colorado. The Senator is referring to old recordings, I assume.

Mr. BALL. Yes.

Mr. JOHNSON of Colorado. The old recordings would be subject to the terms of the old contract. This measure validates the old contract. So the effect would not be what the Senator fears, because the old contract would be valid.

When making a new contract the parties would be subject to the provisions which I have read. Those are the only provisions by which ASCAP would be limited. If, whatever the conditions may be, they enter into a contract with the broadcasters without coercion, compulsion, and without racketeering, and the broadcasters accept a contract under such terms and under such conditions, the contract will be lawful.

I see the Senator from Maine [Mr. WHITE] on his feet. Did he wish to add something to my statement?

Mr. WHITE. I was about to suggest a moment ago to the Senator from Colorado that complete liberty of contract is to be retained by all parties connected with the broadcasting industry, except that they may not undertake to make an unlawful demand upon anyone. So long as the proposed contract is not coercive in its character, and there is no resort to intimidation, threat, or duress, the contract is perfectly lawful, and there is complete liberty to contract between all parties connected with the transactions.

Mr. JOHNSON of Colorado. Will the Senator elaborate on the question of the Senator from Minnesota as to the old contract? That seems to be a point which is bothering him.

Mr. WHITE. The old contract is not touched at all.

Mr. JOHNSON of Colorado. The old contract is completely validated.

Mr. WHITE. Section 506 (c) states: The provisions of subsection (a) or (b) of this section shall not be held to make unlawful the enforcement or attempted enforcement, by means lawfully employed, of any contract right heretofore or hereafter existing or of any legal obligation heretofore or hereafter incurred or assumed.

Therefore, so long as the parties keep away from unlawful intimidation or coercion, they have complete liberty of action.

Mr. BALL. The Senator from Maine is quite familiar with the copyright laws. I am thinking somewhat about the composers of the material which is used. For example, upon the opening of a new musical show on Broadway, I understand that the authors, or composers, collect very good royalties in the event the show is broadcast initially over the radio. Would the language in the subsection (b) (1) limit in any way the right of a copyright owner to refuse to permit the material copyrighted being used on the air, whether in the form of a transcription or any other form?

Mr. WHITE. No; it would not. If an artist should come to a broadcasting company and make a recording he could charge for it whatever he wished. It would be the subject of a contract voluntarily arrived at between him and the broadcasting company. The artist could receive any amount which was agreed upon between him and the broadcasting company or the recording company. When the recording company makes the record, then again there is complete freedom of action on the part of the recording company. It could turn around and lease rights under the contract to a third person, or it could continue to use the recording itself. But always there would have to be a voluntary and contractual

relationship with reference to the use of the recorded material. As I have said, the parties would be at complete liberty of action, and inhibited only by the general principle that it shall be unlawful by threats, intimidation, duress, and otherwise, to coerce anyone. In other words, the action shall be unlawful if unlawful means are employed. Otherwise there is the most complete freedom of contractual arrangement between all the parties concerned.

Mr. JOHNSON of Colorado. I may say to the Senator from Maine that copyrighting is a legal process.

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

Mr. JOHNSON of Colorado. I yield.

Mr. AUSTIN. The particular point under discussion seems to me to be interesting because a discussion arose in conference and there was a disagreement with reference to the original language. We finally unanimously agreed to change the language. The language was changed from—I read from the original bill:

The provisions of subsection (a) or (b) of this section shall not be held to make unlawful the enforcement or attempted enforcement, by means lawfully employed, of any contract right or legal obligation.

There was doubt about the effect of that language. I talked with a number of very earnest members of the artists' organizations concerning the language. They were concerned about the very question which the distinguished Senator from Minnesota has raised. In order to make it clear—and I think we have accomplished it—that no wrenching of the normal rights which exist between an artist and a broadcasting company may be accomplished by this act, and that no change in contractual rights may occur, we spelled it out in the following language:

The provisions of subsection (a) or (b) of this section shall not be held to make unlawful the enforcement or attempted enforcement, by means lawfully employed, of any contract right heretofore or hereafter existing or of any legal obligation heretofore or hereafter incurred or assumed.

I cannot conceive of language more broad and comprehensive than those words afford to take in every conceivable obligation and keep it good.

If there has been an agreement by which royalties were to be paid upon a transcription, for example, for all time that obligation is undisturbed; in fact, it is given a little bit of sanction and validity by this provision. On the contrary, if there is a contract heretofore made which by its terms, and with stated considerations, will expire in a number of years, the obligation and rights under that contract remain undisturbed. It will expire according to the contract, of course. The sole point is that no one should have the right to employ coercion and force to make a new contract for the old performance.

So the answer to the question of the distinguished Senator from Minnesota seems to me this: The validity of contracts is undisturbed; the binding effect of obligations assumed or incurred in the past remains effective, and there is nothing in this statute that affects that rela-

tionship between artists and broadcasters.

Mr. TAYLOR. Mr. President—

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

Mr. JOHNSON of Colorado. One moment. I might say that the Senator from Delaware [Mr. TUNNELL] was considerably concerned by this contract proviso, as were the other Senators, and that we tried to make it complete, comprehensive, and absolute.

Mr. BALL. Mr. President, I take it then that this section does not in any way restrict the right of a copyright owner to limit the use, whether in recordings or in any other way, of his compositions. Is that correct?

Mr. JOHNSON of Colorado. The supposition of the Senator from Minnesota is correct.

Mr. TUNNELL. Mr. President—

Mr. JOHNSON of Colorado. I yield to the Senator from Delaware.

Mr. TUNNELL. Mr. President, I desire to subscribe to all that has been said with reference to this bill by the members of the conference committee, and to make a brief statement as to how I think the bill will work.

Subsections (a) and (b) referred to in subsection (c) on page 2 refer to all the provisions of the act. When I read them and read the prohibitions in the proposed law before I read (c) I thought they were pretty dangerous, but when I came to read (c) which says:

The provisions of subsection (a) and (b)—

And keep in mind that those subsections contain all the prohibitions in the measure—

shall not be held to make unlawful the enforcement or attempted enforcement by means lawfully employed, of any contract right heretofore or hereafter existing.

That is any contract right heretofore existing would be enforced.

Mr. FERGUSON. Mr. President—

Mr. JOHNSON of Colorado. I yield to the Senator from Michigan.

Mr. FERGUSON. I should like to inquire at that point whether or not under the bill which is now proposed a strike would not be a legal remedy to enforce a contract. Strikes at the present time are legal.

Mr. TUNNELL. I do not see why it would not be.

Mr. FERGUSON. Therefore, a strike or a court proceedings or any legal process could be used to enforce rights under a running contract or obtain another contract. Is not that correct?

Mr. JOHNSON of Colorado. Not if duress is implied in the strike which is proposed.

Mr. TUNNELL. If it is lawful.

Mr. JOHNSON of Colorado. A strike is not the only remedy. Resort can be made to the courts, I may say to the Senator from Michigan, to enforce rights under a contract.

Mr. FERGUSON. Cannot the strike also be used?

Mr. JOHNSON of Colorado. Why should a strike be used to enforce a contract? A strike can be used, of course,

if that is what is desired. But no one would want to do that.

Mr. FERGUSON. I am asking whether a strike, being legal is not one of the remedies that could be used?

Mr. JOHNSON of Colorado. The things that are illegal under this bill are coercion and compulsion.

Mr. TAYLOR. Mr. President—

Mr. JOHNSON of Colorado. I will yield to the Senator from Idaho in a moment, as soon as the Senator from Delaware concludes what he desires to say.

Mr. TUNNELL. Mr. President, I am not going to take many minutes, but I should like to finish what I was saying. An individual can use means lawfully employed with reference to the enforcement of any contract right heretofore or hereafter existing. Then, fearing that "contract right" might not be sufficient, that there might be certain rights not covered by contract, rights that might be implied or might accrue by application to a legal obligation, or that the obligation that was passed on or that existed at that time might not be sufficient, there were put in the words "or heretofore or hereafter incurred or assumed."

So that the intention of the conferees was to cover any right which a person had or which he might contract for in the future and that he could use any means that are lawful to enforce such rights and obligations.

Certainly it was the intention of every member of the committee, I think, of both the House and the Senate that the bill should not do the very thing that people writing here today say it does. I do not think it does. I think the bill is legal; I think it reaches the very heart of the condition which has become unbearable to the American people.

I had something to do with this situation, to a certain extent, a long while ago when a committee was appointed, of which the then Senator from Idaho, Mr. Clark, was chairman. We took testimony, including the testimony of Mr. Petrillo. I have his testimony here at this time. Only three or four copies of it were made, I believe, but we have his statement, in which he shows what he is trying to do. He said he has every professional musician in America in the organization of which he is the head. He stated further in the hearing that he was getting \$49,000 a year as the head of that organization, \$45,000 of which was salary and \$4,000 a contingent fund that he did not have to account for, and I suppose, probably, he does not. Subsequently the Senator from Michigan [Mr. VANDENBERG] introduced a bill which was referred to a subcommittee of which I was the chairman. We reported that bill favorably, and it is included in this report. It was enlarged upon by the House, but it is reaching the very thing which has been the subject of investigation by the Senate for 3 years.

I believe the Senator from Michigan had particular ground for complaint. All through the hearing there has been reference to the school at Interlochen. When it was determined by Mr. Petrillo that young people in the school—and it was not a business matter at all, so far

as the children were concerned—should not be allowed to broadcast because Mr. Petrillo objected, it aroused antagonism all over the United States.

Mr. President, I think the bill is all right in its present form, and I hope the conference report will be agreed to.

Mr. JOHNSON of Colorado. I thank the Senator from Delaware for his statement and the other Senators for their contributions.

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

Mr. JOHNSON of Colorado. I yield to the Senator from Idaho first, and then I will yield to the Senator from Vermont.

Mr. TAYLOR. Mr. President, if the bill does not prevent people from striking or doing these other things, what does it do? What is the object of it?

Mr. JOHNSON of Colorado. The bill provides that "It shall be unlawful" to do certain things—that is the very first language. When the Senator reads that language he can skip some of the other words, which are thrown in for decoration, I suppose. "It shall be unlawful"—now skip down to where it says "to coerce, compel, or constrain"—

Mr. TAYLOR. Wait a moment. Do not skip down that far.

Mr. JOHNSON of Colorado. The Senator can put the words in if he desires, but I am trying to make a direct answer to his question.

It shall be unlawful . . . to coerce, compel, or constrain or attempt to coerce, compel, or constrain a licensee—

To do (1), (2), (3), (4), and (5). Then the conditions are set up under subsection (b).

Mr. TAYLOR. Then, it would be against the law to strike, or in an effort to obtain agreements, to do any of the things which are specifically mentioned.

Mr. JOHNSON of Colorado. It would be unlawful to coerce, to compel, or constrain, or attempt to coerce, compel, or constrain a licensee to do certain things.

Mr. TAYLOR. Or use any other means to get what was desired. That would be against the law. They could not strike, because that is a method of coercion, is it not?

Mr. JOHNSON of Colorado. If it is a method of coercion on those particular points, it would be included. The bill provides it shall be unlawful to do these things, to coerce, to compel, to constrain, or attempt to compel, coerce, or constrain, a licensee, to do (1), (2), (3), (4), (5), or (6).

Mr. TUNNELL. Mr. President, may I ask a question?

Mr. JOHNSON of Colorado. Yes; I yield to the Senator from Delaware.

Mr. TUNNELL. According to the thought just suggested by the Senator from Idaho, I cannot see how we could get around his objection without saying "This section shall not be held to make unlawful the enforcement or attempted enforcement by means lawfully employed except strikes." Does the Senator want an exception as to strikes inserted? The bill takes in all legal methods, and leaves them to be enforced by any legal method.

Mr. TAYLOR. That is correct. The last paragraph says that all lawful

methods and legal methods are permissible to enforce previous contracts.

Mr. JOHNSON of Colorado. That is correct.

Mr. TAYLOR. And subsequent contracts, but it does not say one can use these methods to get new contracts. If a radio station manager hands a contract to a person he can use these methods to see that the contract is lived up to, but he has no method of getting a contract in view of these provisions of the bill. In the first paragraph of the bill it is provided:

It shall be unlawful, by the use of express or implied threat of the use of force, violence, intimidation, or duress, or by the use or express or implied threat of the use of other means.

And so forth. One could not even sit down and talk about it.

Mr. JOHNSON of Colorado. The bill prohibits all other means. It is as if we would pass a law and say it shall be unlawful to commit murder, and then list the ways one could commit murder, with a bow and arrow, with a shotgun, with an air rifle, with a knife, or other weapon. The bill says one can not coerce or constrain or attempt to coerce or compel or constrain a licensee by any means.

Mr. TAYLOR. Will the Senator yield?

Mr. JOHNSON of Colorado. I do not see the conflict the Senator points out between (c) and the first paragraph under (a) or the first paragraph under (b). I do not find that conflict.

Mr. TAYLOR. Then these provisions (1), (2), (3), (4), (5), and (6) are outlawed, and one can not use any means to obtain a contract.

Mr. JOHNSON of Colorado. One can not use any coercive means to obtain one.

Mr. TAYLOR. Of course, there are no means of obtaining anything without coercion.

Mr. JOHNSON of Colorado. I should not care to subscribe to that theory. An artist sits across the table from the broadcaster, and offers to perform, to make some contribution of entertainment, and he bargains with the broadcaster. The entertainer or the artist does not have to sing or play his mandolin or do anything else if he does not care to. It is up to him to do it. So they do have bargaining.

Mr. TAYLOR. If one says, "I will not play my mandolin if you do not give me so much money," he is trying to coerce the man.

Mr. JOHNSON of Colorado. No, he is not trying to coerce him. If he should say, "You cannot place any restraint in any contract," or "You cannot have anyone else, or I am going to raise trouble," then he would be threatening, but so long as he deals with what he has to furnish, there is no coercion, it is plain bargaining.

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

Mr. JOHNSON of Colorado. I yield.

Mr. TAYLOR. Let us consider the prohibitions which they cannot even talk about without being convicted under the bill. They are out. One cannot even talk about them.

To employ or agree to employ, in connection with the conduct of the broadcasting business of such licensee, any person or persons in excess of the number of employees needed by such licensee to perform actual services.

Mr. JOHNSON of Colorado. Would the Senator want them to hire someone they did not need? It is a prohibition against having to hire and pay for more than they need. That is all it boils down to. Is that what the Senator is contending for? Does he want persons to go out on strike to make a broadcasting company hire people for whom it has no need?

Mr. TAYLOR. That is the common practice in the field of labor relations. If a man is driving a truck, he does not have to have to jump off and go in and scrub the floors between times.

Mr. JOHNSON of Colorado. There is nothing like that in this bill. Under this provision no one is going to make Bing Crosby sweep any floors, if that is what the Senator is afraid of, or Frank Sinatra clean spittoons. There is nothing of that kind in it.

Mr. TAYLOR. I did not think that would be tried. I simply used that as an extreme illustration. In the past they used to require an actor to play as many as seven parts in one radio broadcast. Some of the actors were clever enough to disguise their voices and play seven parts, because no one could see them. The actors took the matter up, and now an actor cannot play more than two parts without receiving extra compensation. But under the conference report, the radio station can say, "We only need one man on this whole program. We have a clever guy, and we do not need any of the rest of you. Get out."

Mr. JOHNSON of Colorado. Who interprets it? Is it the radio station, in the Senator's opinion.

Mr. TAYLOR. Yes.

Mr. JOHNSON of Colorado. No; it is the district attorney who makes the determination whether they have more than they need. This is a criminal statute.

Mr. TAYLOR. Every time there is a dispute between a labor union and a station manager they have to go to a court and get an interpretation?

Mr. JOHNSON of Colorado. Of course, that is carrying it beyond reasonable extremes, too.

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

Mr. JOHNSON of Colorado. I yield to the Senator.

Mr. AUSTIN. I do not desire to interrupt the colloquy, but merely to call attention to what the Committee on Interstate and Foreign Commerce of the House said about the point which is under discussion, and what the committee says is a part of the record covering the interpretations of the bill. I am reading from page 5 of that report.

A characteristic presumption of those who make these demands is carried in a telegram from Mr. Petrillo to the network in October 1945, as follows—this is a quotation from his telegram:

This is to advise you that after the meeting between your company and the American Federation of Musicians held in my office

the matter was further discussed and we came to the final conclusion that beginning Monday, October 29, 1945, wherever musicians play for FM broadcasting and AM broadcasting simultaneously the same number of men must be employed for FM broadcasting as are employed for AM broadcasting, which means a double crew must be employed. Kindly govern yourself accordingly.

That is the end of the quotation from Mr. Petrillo. The committee continues, as follows:

The absurdity of such a demand is apparent. Two orchestras required for simultaneous broadcast would be an anomaly. It is reported that one of the networks has a staff orchestra of 95 pieces and compliance with this order would require the employment of 190 musicians to needlessly duplicate and embarrass the work of one orchestra.

A circumstance that gave impetus to this legislation was an edict directed at a music school in Michigan, which prohibited a broadcast by a school orchestra unless a tribute of three times the usual price of an orchestra of the federation was paid for that privilege. The Vandenberg bill which passed the Senate and the Dondero bill introduced in the House were outgrowths of that circumstance.

I think every reasonable man must recognize that that kind of a demand enforced by the implied threat of a strike is intolerable in the United States of America. And it is time that it was declared a misdemeanor to do such a thing.

Mr. JOHNSON of Colorado. I thank the Senator from Vermont. I think it should be said in connection with what the Senator from Vermont has already so well stated, that while the bill was being considered in the House the word was changed from employee "wanted" to employees "needed." That is a very important change. But that change was made, and the conference report and the measure now contain the word employees that are "needed"; not employees that are wanted, but employees that are needed.

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

Mr. JOHNSON of Colorado. I yield.

Mr. BALL. Is it the Senator's interpretation of the language in the opening clause of both (a) and (b) "or implied threat of the use of other means, to coerce" that a strike by the musicians' union or any other union around a broadcasting station to compel the employer to sign a contract agreeing to any of these feather-bedding practices, so-called, would be an illegal strike, and those who called it would be in violation of this section?

Mr. JOHNSON of Colorado. Yes, if they attempted to make use of coercion or compulsion or constraint to accomplish their purpose, it would be unlawful so far as the six feather-bedding provisions are concerned.

Mr. BALL. Then, a strike certainly is an attempt to coerce. It has gotten a little beyond, I think, merely talking about it, or peaceful persuasion, and a strike to force any of those particular provisions into a contract would then become an illegal strike.

Mr. JOHNSON of Colorado. But a strike for other purposes, for other objectives, would be perfectly legal and would not be interfered with in any way

by provisions (1), (2), (3), (4), (5), and (6).

Mr. TAYLOR. They could not strike, however—

Mr. JOHNSON of Colorado. They could not use coercion.

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

Mr. JOHNSON of Colorado. I yield.

Mr. TAYLOR. I should like to make my position clear to the Senator from Colorado and to other Members of the Senate. I hold no brief for Mr. Petrillo and his interfering with the broadcasting of the Interlochen group. I was not here when the bill of the Senator from Michigan [Mr. VANDENBERG] was introduced and passed. Frankly, I would be glad to vote for that bill. But this bill bears no resemblance to the bill of the Senator from Michigan. His bill was aimed at Mr. Petrillo and that evil practice. This bill would, I believe, work great hardship on the whole theatrical profession, that is, insofar as it is connected with radio. I have great numbers of telegrams from members of the radio profession, singers, actors, writers, directors, and I am put in a rather unusual position. If there were only one lawyer in the United States Senate and a bill came up in the Senate which all the lawyers of the country thought was going to be very detrimental to their best interest, they would probably get in touch with the one lawyer in the United States Senate to present their case for them. That is what has happened to me. It happens, I believe, that I am the only man with a theatrical background here, so people in the entertainment field have picked on me to try and help them in their extremity.

Mr. JOHNSON of Colorado. I will say they picked on a very good representative, and that he is doing a grand job for them, but unless they want to do one of the things that are listed in (1), (2), (3), (4), (5), and (6), this bill does not affect them in any way. I am sure that the artists whom the Senator so ably represents, are not bent on compulsion of any kind, or coercion, or unlawful practices. I am sure that they have no such idea in their minds.

The Senator says that he approves the Vandenberg amendment. He will find that in paragraph (5) on page 2. That is one of the feather-bedding proposals which have been made unlawful. It is contained in the report.

Mr. TAYLOR. The Vandenberg bill is in the report, but with some of its clarifying language deleted. The Vandenberg bill made reference to duly accredited schools in broadcasts. That was eliminated. It is no longer in the bill. It is simply up to the radio station owner to decide what is an educational program. He can decide that almost anything is educational.

Mr. JOHNSON of Colorado. No, I do not think so. I think the decisions which are to be made under this bill will be made by the courts. If the parties are not satisfied, the courts have to make decisions, because it is a penal statute which we are writing.

Mr. TAYLOR. Of course, in that event it will call for a whole series of court interpretations.

Mr. JOHNSON of Colorado. I do not think it will call for any court interpretations, because the language is so plain that I do not believe it will ever reach the courts. But if by any chance the parties should go to the courts, that is where the final decision would be made.

Mr. TAYLOR. As the Senator from Colorado said, the artists of America are a rather tractable group, even though they do have the reputation of being temperamental and of being prima donnas. We have had very little labor trouble with them. They want to do right and they generally do. But from a reading of the first prohibition in the conference report trouble would arise if the radio station manager wanted a man to play more than two parts. There would be trouble right there. In negotiating a new contract the station manager may say, "I have a fellow who will play seven parts. I want to hire him." He will be told, "You have to pay him extra for playing more than two parts." If he disagrees it will be necessary to go to court for decision as to what is a reasonable number of parts for one actor to play in a broadcast.

Mr. JOHNSON of Colorado. No; the individual can simply say he will not play any part, if he wants to say that.

Mr. TAYLOR. He might want to play those parts. It is the union which wants to limit the number of parts a person may play.

Mr. JOHNSON of Colorado. I see the point the Senator is making. Some outsider might want to restrict the artist. I did not understand. I thought the Senator was complaining against the broadcasting company.

Mr. TAYLOR. Unions, of course, have certain rules. One of them which is written into every contract is that an actor may not play more than two parts without receiving extra compensation. That is reasonable.

Mr. JOHNSON of Colorado. An actor may carry that condition into his contract with the broadcasting company, if he wishes to follow the union's suggestion that he play only two parts. He can restrict himself to playing not more than two parts. Even an artist cannot be compelled to do things that he does not want to do.

Mr. TAYLOR. Of course, if a person were permitted to make a contract to suit himself, individually, it would in effect outlaw any closed-shop contract.

The second paragraph reads as follows:

To pay or give or agree to pay or give any money or other thing of value in lieu of giving, or on account of failure to give, employment to any person or persons, in connection with the conduct of the broadcasting business of such licensee, in excess of the number of employees needed by such licensee to perform actual services.

Of course, that is a repetition.

Mr. JOHNSON of Colorado. Let us boil that down a little. Let us boil it down to this language:

To pay money in lieu of employing persons he does not need.

That is, he does not employ them; he does not need them; and yet he is compelled, through coercion, to pay tribute to someone. That is one of the "feather bedding" provisions which the bill seeks to make unlawful.

Mr. TAYLOR. Paragraph (3) reads as follows:

To pay or agree to pay more than once for services performed in connection with the conduct of the broadcasting business of such licensee.

If an artist made a record, he could not be paid a royalty on the record, after the first performance.

Mr. JOHNSON of Colorado. Oh, yes. Under the terms of this bill, he could be paid whatever his contract called for. Let us boil that provision down to more simple language. It prohibits paying more than once for services performed. That provision grew out of this condition: Mr. Petrillo would bring in a band and they would play. He would pay a man once for being a musician. Then he would pay him once for being the business manager for the musicians. Then he would pay him for being the leader of the musicians. One man would be paid, not once but three or more times. That is what this provision is aimed at. All these provisions have been placed in the bill to stop some of the fantastic and evil attempts by Mr. Petrillo—

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

Mr. JOHNSON of Colorado. I yield.

Mr. McMAHON. As a point of information, suppose an author should write a script, under a contract, we will say, to receive \$250 for the script, to be broadcast over Station WTOP. Suppose a station in Illinois should pick up that broadcast, record it, and rebroadcast the recording. Would the writer be prohibited from collecting for the second broadcast?

Mr. JOHNSON of Colorado. I am presuming that he would copyright his script.

Mr. McMAHON. I assume so.

Mr. JOHNSON of Colorado. If he copyrighted it, the copyright laws would govern. The copyright laws are the law of the land; and if he copyrighted his script everyone would have to observe the copyright laws.

Mr. McMAHON. I thank the Senator.

Mr. TAYLOR. Paragraph 5 is supposed to be the Vandenberg amendment.

Mr. JOHNSON of Colorado. Yes.

Mr. TAYLOR. It does not provide that the schools must be duly accredited schools before the programs can be classed as educational programs.

Mr. JOHNSON of Colorado. No; but let us read the last part of that provision, starting with the word "and":

And such licensee neither pays nor gives any money or other thing of value for the privilege of broadcasting such program nor receives any money or other thing of value on account of the broadcasting of such program.

Does not that place the performance very definitely in the amateur class, if those employed do not receive pay for it?

Mr. TAYLOR. It could be used as a powerful weapon against the union in

bargaining. The broadcasters might threaten to broadcast nothing but educational programs for a while; and if the law did not contain the qualifications in the original Vandenberg bill the broadcasters could pick up amateurs anywhere and not pay them. Amateurs would be glad to go on the air, in the hope that they might get into the radio business.

Mr. JOHNSON of Colorado. I do not believe that they could compete for very long or very satisfactorily with good artists. The American listener is too good a judge to be fooled by free entertainment. He wants the best, and he is not going to put up with amateurs simply because the radio station gets them free.

Mr. TAYLOR. Of course, the radio business is Nation-wide, and if listeners had to put up with amateurs, it would be on a Nation-wide basis. The radio broadcasting business is not competitive in the sense that other businesses are competitive. The union is Nation-wide, and if a strike were called it would be on a Nation-wide basis. But the broadcasters could pick up amateurs and broadcast their performances all over the country.

Paragraph 6 reads as follows:

To refrain, or agree to refrain, from broadcasting or permitting the broadcasting of any radio communication originating outside the United States.

I should like to know what would prevent the radio broadcasters from bringing in any number of broadcasts of symphony orchestras from overseas. Broadcasts from overseas could be brought in, and musicians could be obtained overseas for very much less than our own symphony musicians would have to be paid. In fact, a complete broadcasting outfit could be set up in Mexico, and nothing could be done about it, because a broadcaster could not be coerced in any way "to refrain, or agree to refrain, from broadcasting or permitting the broadcasting of any radio communications originating outside the United States."

Mr. JOHNSON of Colorado. I had always understood that the Senator from Idaho was a "one-worlder." I thought he believed in the united states of the world.

Mr. TAYLOR. That is correct. If everyone will agree to that, I will agree to this.

Mr. JOHNSON of Colorado. The Senator wishes to build a wall of isolation around the United States, and not allow any cultural programs to cross our borders. As a matter of fact, such broadcasts would be limited by the American listener. I do not believe that the thing would be overdone. I have great confidence in the American listener. He has excellent judgment, and if he is not satisfied he is going to tune out the radio program and turn to one which he likes. Perhaps the foreign entertainers—

Mr. TAYLOR. They would be just as good as ours. Foreign symphony orchestras are just as good as ours.

Mr. JOHNSON of Colorado. If they are, I should like to listen to them, and I think others would, too. The Senator from Idaho would deny us that right.

Mr. TAYLOR. No; but musicians can be hired in foreign countries for a fraction of what our own symphony musicians would receive in this country. I am sorry to say it, but I am convinced that listeners in America would think that they were getting something special if they had the Paris symphony on the air, or the Berlin symphony, the Rome symphony, or the London symphony. That would sound much more high-toned than the Philadelphia symphony, and they would be glad to listen to them. Every symphony musician in America might very well find himself out of employment if this bill should be enacted into law as it is written.

I have attempted to give a list of the things that could happen. A complete broadcasting outfit could be set up in Mexico, just over the border, and our artists could not complain, or they might be thrown into jail and fined \$1,000.

Mr. JOHNSON of Colorado. I am perplexed, confused, and even disappointed with the Senator from Idaho. He wants world-wide government, and yet he wants isolationism in cultural matters.

Mr. TAYLOR. If it is the object of the bill to give away our broadcasting industry to foreign countries, then let us say so, and let it go at that. I am for world government. I think it is the only way we are ever going to keep peace in the world. I should like to invite the attention of the Senate to a very good statement by General MacArthur on the subject. I believe the statement was made on April 4, in Tokyo. It is a very good statement. The world government is coming along, incidentally.

But let us get back to the matter of broadcasting. This is subsection (b).

(b) It shall be unlawful, by the use or express or implied threat of the use of force, violence, intimidation or duress, or by the use of express or implied threat of the use of other means, to coerce, compel or constrain or attempt to coerce, compel or constrain a licensee or any other person—

(1) to pay or agree to pay any exaction for the privilege of, or on account of, producing, preparing, manufacturing, selling, buying, renting, operating, using, or maintaining recordings, transcriptions, or mechanical, chemical, or electrical reproductions, or any other articles, equipment, machines, or materials, used or intended to be used in broadcasting or in the production, preparation, performance, or presentation of a program or programs for broadcasting; or

(2) to accede to or impose any restriction upon such production, preparation, manufacture—

Mr. JOHNSON of Colorado. Mr. President, let us take one of them at a time, please.

Mr. TAYLOR. They are related, are they not?

Mr. JOHNSON of Colorado. No; they are not. They are separate. The first one has to do with manufacturing and producing. I am sure the Senator from Idaho does not want Mr. Petrillo to receive tribute on the manufacture of records.

Mr. TAYLOR. The RCA has a patent on the process of manufacturing electrical transcriptions, and General Electric has patents. Can they collect on the records which are made?

Mr. JOHNSON of Colorado. If they have a patent, of course they are entitled to whatever right the patent law gives them. But this provision applies to paying or agreeing to pay tribute "for the privilege of, or on account of, producing, preparing, manufacturing, selling, buying"—and so forth. Everyone who deals in transcriptions or in records will have to pay a tribute to Mr. Petrillo unless this provision is included.

I wish to say this about the entire measure: Anyone who heard Mr. Petrillo testify before Worth Clark's committee in the Senate must have been impressed, as I was greatly impressed, by Mr. Petrillo. I think he is one of the smoothest men I have ever listened to on the witness stand at any place or at any time. He is just as smooth as he can be. So far as I know, Mr. Petrillo has offered no objection at all to this measure, and that is what has worried me.

Mr. TAYLOR. Very well. The bill may have missed Mr. Petrillo, but it hits every entertainer in America. Mr. Petrillo is not worried at all, but the entertainers are worried, because this thing has misfired.

Mr. JOHNSON of Colorado. No, Mr. President; I cannot agree with the Senator as to his conclusion. But probably Mr. Petrillo has some way by which he thinks he will avoid the restrictions imposed by this measure, if it is passed.

Mr. TAYLOR. I have had no communications from Mr. Petrillo or the unions. All communications have come from persons in the entertainment field: Actors, singers, writers, and directors.

Mr. JOHNSON of Colorado. Mr. Petrillo's organization has even refused to testify. They acted with high disdain, and they have not paid any attention to this measure. But this language is included so as to tighten it up and button it up so that Mr. Petrillo will not be able to escape. Whether that will be the effect, I do not know, but that was the purpose, because we are dealing with a very slippery gentleman.

Mr. TAYLOR. I am not objecting, but I wish to have the Senate understand what it is before we vote on it.

Mr. JOHNSON of Colorado. Yes; and I think the Senator is rendering a worthwhile service, because I think the Senate and the Congress and the country should know.

Mr. TAYLOR. The next one is as follows:

(2) To accede to or impose any restriction upon such production, preparation, manufacture, sale, purchase, rental, operation, use, or maintenance, if such restriction is for the purpose of preventing or limiting the use of such articles, equipment, machines, or materials in broadcasting or in the production, preparation, performance, or presentation of a program or programs for broadcasting.

A while ago the Senator from Colorado said, I believe, that that provision would not interfere with the collection by ASCAP of royalties on the records for the writers of songs.

Mr. JOHNSON of Colorado. I said it would not if they have a contract and if the contract is validated. The second paragraph makes it impossible for Mr. Petrillo to limit the number of record-

ings and transcriptions. He will not be able to say, "You can make only 5" or "You can make only 10." Without that language he would be able, by the use of threats, coercion, and other means, to restrict and restrain the production of transcriptions and records.

Mr. TAYLOR. The last provision in which I would be interested is as follows:

(3) To pay or agree to pay any exaction on account of the broadcasting, by means of recordings or transcriptions, of a program previously broadcast, payment having been made, or agreed to be made, for the services actually rendered in the performance of such program.

Let me explain what the procedure is in this respect. When a program is originally broadcast, the artists, through their unions, permit a transcription to be made, and it can be played at any time within a week over any station of the network which was busy with some other program at the time when the original broadcast was made.

However, the provision I have just read would make it possible to play a transcription of the program at any time in the future, and as many times as might be desired. In a few years the audiences might forget all about it, and it could be played over again. That would work serious harm to the entertainers.

Mr. JOHNSON of Colorado. Not if there were a contract to do otherwise. At the time when the artist entered into a contract with the broadcasting company, he could very well have in the contract a proviso that he should receive a certain amount of pay if the transcription or recording were played 10 times or were played twice or were played even once. But he could not receive that payment time after time and time after time, and he could not coerce the broadcasting company into entering into a contract to keep on paying him forever.

Mr. TAYLOR. I do not know why he should not be paid forever if the broadcaster is paid each time he does the broadcasting. The artist is entitled to a part of the profits.

I may point out that the broadcasting business in America made \$90,000,000 in profits last year. The physical equipment is worth approximately \$100,000. Because of the value attached to a franchise which was given by the Government—in other words, a monopoly—many of the stations sell for around \$1,000,000. They are doing all right. I think the artists are entitled to a little consideration here, and they should not be imposed upon because of Mr. Petrillo. The bill misses him, in fact.

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

Mr. JOHNSON of Colorado. I yield.

Mr. AUSTIN. If I have correctly understood what the distinguished Senator from Idaho has said, I would reply that this provision assures the right which he seeks, namely, that the artist or performer shall have compensation for his services to the public. It is all up to him. He is a freeman. The artist has a right to demand for his services all that the public is willing to pay. If he has been skillful and has learned to apprise his services highly, he will charge, when he

makes the first recording, a price which contemplates any number of uses of the product.

In other words, this measure is a benefit to the artist, instead of what the distinguished Senator from Idaho seems to think it is. This measure serves notice on his employer, the licensee, and it serves notice on anyone who is in the business of manufacturing records, and so forth, that the first time when the contract is entered into is the time when the agreement for payment shall be made, and that after that agreement has been made the artist is assured by the other provisions—namely, subsection (c)—that he can enforce that contract, even though the royalty runs until his death or after his death.

In other words, the artist is put under the protection of the law. It gives him a real standing in his dealings with his vis-à-vis, no matter whether that person is a broadcaster or merely a mechanic operating a recording device for the subsequent reproduction of sound. In each case he knows that his Government is behind him, and will enable him to enforce the contract which he enters into, with the full knowledge that he is entitled to have for his service all that it is worth.

Mr. JOHNSON of Colorado. I thank the Senator from Vermont for his very clarifying statement.

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

Mr. JOHNSON of Colorado. I yield.

Mr. HATCH. I hesitate to interrupt the Senator because I have been absent from the Chamber. It is very likely that the question I am about to propound has been answered and fully explained. If the Senator does not mind the interruption I should like to state that I observe in the conference report, beginning with section 506 (a) the following language:

It shall be unlawful, by the use or express or implied threat of the use of force, violence, intimidation, or duress—

And so forth. Following that language there are paragraphs 1, 2, 3, 4, 5, and 6 which prohibit certain practices. I have not had an opportunity to study the language. In reading it hurriedly it occurs to me that all the things which are forbidden are forbidden only if they are induced or caused by threat, force, intimidation, or violence.

Mr. JOHNSON of Colorado. All those arrangements may be entered into under contract unless they are brought about by duress, compulsion, and so forth.

Mr. HATCH. And, I assume that the same interpretation applies to the next subdivision.

Mr. JOHNSON of Colorado. Yes.

Mr. HATCH. In other words, Mr. President, am I to understand that the entertainers of America are going to engage in threats, violence, duress, and coercion?

Mr. JOHNSON of Colorado. That is something which has puzzled me greatly, and when I received from Bing Crosby and other entertainers the telegram to which reference has been made, I could hardly resist telegraphing Bing Crosby and asking him if he wanted the privilege of using coercion and duress in order

to gain these points which are set forth in the bill.

Mr. HATCH. Mr. President, it is a well-known understanding in connection with the law that contracts induced by threats and coercion are invalid.

Mr. TAYLOR. Then practically every contract in America is invalid.

Mr. JOHNSON of Colorado. But Mr. Petrillo, nevertheless, has imposed his will upon the broadcasting companies of America.

Mr. HATCH. Mr. President, I take issue with what the Senator from Idaho said, namely, that every contract in America is invalid, and that the business of this country is done under duress, threats, intimidation, and violence. Mr. President, a Senator who would make such a statement is not familiar with the courts and legal procedures of this country.

Mr. TAYLOR. Mr. President, I am not familiar with the courts and legal procedures. I pointed that out when I started to talk. I am not a lawyer, and I have tried to find out what the language in the bill means. Nobody seems to know. It contains the words "other means." Nobody knows what those words mean, and no one has been able to tell me whether the threat of a strike is coercion.

Mr. JOHNSON of Colorado. Awhile ago I attempted to tell the Senator that when we enact a law against murder it does not make any difference what means the murderer may use, whether a butcher knife, a shotgun, or a club, or anything else. The means which may be employed does not mean much.

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

Mr. JOHNSON of Colorado. I yield.

Mr. AUSTIN. I think the two questions which the distinguished Senator from Idaho has asked have been answered. Would he remind repeating his first question? If he will do so, I shall try and answer it immediately.

Mr. TAYLOR. The first question?

Mr. AUSTIN. Did the Senator ask what was comprehended by the words "other means"?

Mr. TAYLOR. Yes.

Mr. AUSTIN. In the conference we discussed fully those words, and it was definitely understood that they included strikes and boycotts. Is that what the Senator refers to?

Mr. TAYLOR. Persons may not strike—

Mr. AUSTIN. They may not strike in order to gain the advantage of these misdemeanors which are set forth. However, they may strike for anything which is not unlawful. With the exception of the nine things which are prohibited in the relationship between the licensee and his artists and between the artists and the reproducers of sound, the nine which are regarded as in conflict with our free institutions and our self-respect, there may be a strike for anything else. There may be a strike for a new contract with reference to wages, with reference to hours, or with reference to anything else except those things which are denounced because they have been proven through experience as being

a type of tyranny which others should not suffer.

As to the Senator's other question, let us answer it from the record. If the Senator will look at page 6 of the report No. 1508 which was made by Mr. LEA for the committee which reported the bill to the House, he will see the following language:

This subsection makes it unlawful to coerce, compel, or constrain (or to attempt to coerce, compel, or constrain) any radio-station licensee to do any one or more of the things specified in paragraphs (1) to (6), inclusive, of the subsection, whether such actual or attempted coercion, compulsion, or constraint is exerted by the use, or threat of the use, of force, violence, intimidation, or duress, or whether it is exerted by the use, or threat of the use, of any other means (whether or not of the same character as force, violence, intimidation, or duress).

It has been necessary to use the broad language "or by the use or express or implied threat of the use of other means" in order to make the legislation effective. It was necessary to use language broad enough to embrace actual or threatened boycotts and actual or threatened strikes, because these, as well as action or threatened action of like character, could well be among the means by which the coercion, compulsion, or constraint prohibited by the bill may be accomplished or attempted to be accomplished. If the language were not this broad the legislation would fail to accomplish its purpose.

This subsection does not prohibit the right to strike or to withhold services, or force individuals to work against their will or desire. It will place no limitation whatever on the use of strikes for the accomplishment of legitimate objectives, such as wage increases or better working conditions. The subsection does not prohibit strikes as such. What it does do is to prohibit the accomplishment, by actual or attempted coercion, compulsion, or constraint, of certain unconscionable and wrongful objectives, regardless of the means used.

That, I think, is a full answer to the Senator's question. I think he is serving the public a great good by asking these questions, and causing the RECORD to show what was intended and what was considered by the conferees in building up this report.

Mr. JOHNSON of Colorado. I thank the Senator from Vermont. I have just one more word I wish to say, and then I shall be glad to yield the floor.

Mr. DONNELL. Mr. President, will the Senator yield to me to ask a question of the Senator from Vermont?

Mr. JOHNSON of Colorado. I yield.

Mr. DONNELL. I should like to ask for a clarification of one of the subdivisions of section 506 (a). I refer to the language appearing in subdivision (6), as follows:

To refrain, or agree to refrain, from broadcasting or permitting the broadcasting of any radio communication originating outside the United States.

May I suggest an illustration, and inquire of the Senator from Vermont, and also the Senator from Colorado, whether or not such a situation as I am about to mention was intended to be included within this subdivision (6)? Suppose the employees of a broadcasting station should threaten to strike if the station should broadcast a certain communication originating outside the United States, which communication the em-

ployees claimed would be defamatory of them. Would there be any penalty imposed under subdivision (6) upon the employees for striking in the attempt to cause the proprietor of the station to refrain from permitting such a broadcast?

Mr. AUSTIN. Mr. President, so long as men are frail, as they are, they are unable to enact legislation which will work perfectly in every case and do perfect justice. The question here is one which cannot possibly be answered in either the affirmative or the negative, without adding to it some conditions and facts.

If we are examining the proposed law to see whether it is in furtherance of good government and whether it embodies a policy which we find necessary in order to preserve the freedom of the employees to whom the distinguished Senator from Missouri refers, I would say that this provision does not bar them from protecting their good names, and is not intended to. If they struck, or accomplished their purpose by threat of a strike, if they prevented the broadcasting of the record from abroad, or an original act from abroad, and were brought into court under the penalty clause of the bill—which is reasonable, which is not cruel and unusual punishment, but is a punishment that is, in the maximum, only for a misdemeanor—when brought into court I have no doubt whatever that they would be able to establish that their strike was for a lawful purpose, if they were able to show that the broadcast was defamatory. That is the element in this question which it seems to me makes it impossible to answer "Yes" or "No." I think we would have to say that, so far as the proposed legislation is concerned, there is nothing we have done and nothing we can do now which would make it any easier to answer that question. The question cannot be answered except by a court when a prosecution under the penalty clause is brought. Does that answer the question?

Mr. DONNELL. I thank the distinguished Senator for his statement, and I think it is very helpful.

Mr. JOHNSON of Colorado. Mr. President, I should like to inject one other thought in addition to that expressed by the Senator from Vermont. Their remedy might lie in some other direction than through a strike. They might get a remedy against defamation in the courts, instead of going out on a strike. I think this matter of striking about every little thing men do not like is a very bad practice in America, when there are other remedies which should be resorted to instead of flying off the handle and going out on a strike.

Mr. DONNELL. Mr. President, may I ask the Senator to yield for a moment further?

Mr. JOHNSON of Colorado. The Senator from Vermont is on his feet, and perhaps he has something further to say.

Mr. AUSTIN. I do not wish to interrupt, but I want to call attention to the penalty clause, which I did not do. It does not levy a penalty merely upon the happening of the event. It is like the case of any other misdemeanor, it provides for intent. Whoever willfully vio-

lates any provision of subsection (a) or subsection (b) is the person who suffers the penalty, but it can be seen that the prosecutor would be required, in such a prosecution, to show that there was such a violation as was willfully intended to cut across the policy of the law. If there were, as the distinguished Senator suggested, a broadcast of a matter which was defamatory, the State would not be able to show that there was a willful violation, which the law declares must be established.

Mr. DONNELL. Will the Senator yield for a moment further?

Mr. JOHNSON of Colorado. I yield.

Mr. DONNELL. I appreciate the response of the distinguished Senators who have responded to my inquiry. As I have indicated, I think a useful purpose has been served by their responses, as undertaking in a sense to interpret the meaning of subdivision (6) of section 506 (a).

I think it would be particularly unfortunate if that section were to mean that employees of a broadcasting station would be subject to imprisonment and fine if they should strike in order to induce an employer, a broadcasting station, to refrain from using a communication originating outside the United States which was of a character defamatory of the employees.

Mr. HICKENLOOPER. Mr. President, will the Senator from Colorado yield?

Mr. JOHNSON of Colorado. I yield to the Senator.

Mr. HICKENLOOPER. Let me ask the Senator from Missouri what remedy would he as a private citizen, or the Senator from Vermont, or the Senator from Colorado, or any other citizen, have against the broadcasting company to prevent it from using something originating abroad which he thought was defamatory of him?

In other words, should the right of an employee in exercising supervision over what he judges to be offensive to him in connection with the business rise any higher or be any more extensive in the matter of equity than the right of an individual citizen?

Mr. DONNELL. Mr. President, will the Senator from Colorado yield?

Mr. JOHNSON of Colorado. I yield.

Mr. DONNELL. I take it that the thought in the mind of the distinguished Senator from Iowa is that the private citizen would be remitted to a suit for damages for defamation, or something analogous to such a suit. I have no doubt that the Senator is correct. On the other hand, as I understand, the Senator from Vermont takes the general view that a prosecution against a person or combination of persons who should strike in order to prevent an employer, the manager of a broadcasting station, from putting on the air defamatory matter originating outside the United States would fail because of the fact that willfulness, which is a necessary incident in order that the penal clause may apply, would not be shown to exist.

Mr. President, I can well see the two sides of this question, and I think the Senator from Iowa has likewise con-

tributed a very important and valuable thought to the discussion.

To my mind it is of the utmost importance, however, regardless of which side may be correct upon the point suggested by the Senator from Iowa, to know, and to have our record here show, just what is the reason behind subdivision (6) of section 506 (a). I have no doubt it is a wholesome reason.

Mr. President, I share the view of the Senator from Colorado, in large part, that strikes should not be encouraged. This strange remedy which groups of workers may take into their hands should not be encouraged for any trivial purpose. On the other hand, Mr. President, I think it is of importance to have the RECORD clearly show what is the evil that is designed to be reached by subdivision (6) of section 506 (a), and with the consent of the Senator from Colorado, I respectfully request either he or the Senator from Vermont to give us a clear, definite exposition in the RECORD of what the evil is that is designed to be prevented by the inclusion of subdivision 6 of section 506 (a).

Mr. JOHNSON of Colorado. I am very glad to do that. It is to prevent Mr. Petrillo from stopping cultural and educational programs originating abroad coming through the radio stations of America. Of course, that is one of the things he does. If a program originates in England, let us say, or Mexico, Mr. Petrillo will not allow it on the air in this country. The people in this country may want to listen to it. Mr. Petrillo says, "No; you cannot do that. That originated in some other country, and we cannot permit that to come into this country over the broadcasting stations of this country."

The object of paragraph (6) is to meet that situation.

Mr. DONNELL. Mr. President, I very much appreciate the explanation given by the distinguished Senator, and I think it contributes very materially to the definition and clarification and interpretation of this particular subsection.

Mr. JOHNSON of Colorado. I thank the Senator.

Mr. President, I have just one more word to say, and then I shall take my seat. The Senator from Vermont [Mr. AUSTIN] called attention to this matter a moment ago, but I want to call the Senate's attention to the provision in paragraph (d), "Whoever willfully violates any provision of subsections (a) and (b) of this section." It seems to me that is very important in the consideration of legislation of this kind.

One more thing, Mr. President. In all the legislative history of this bill in its progress through Congress there has been no intention to prevent the use of reasonable cancellation clauses. I thought that was a point which ought to be clarified for the RECORD.

Mr. TUNNELL. Mr. President, I should like during this discussion to show some of the things which have been done, and which have made a bill of this kind almost necessary. I have before me the hearing before the Senate Committee on Interstate Commerce of January 12, 1943. Before the testimony was given a state-

ment was made by the chairman of the subcommittee. This is the order which seemed to start the difficulty with reference to Mr. Petrillo at that time. He sent out to the transcription companies, and I believe to the broadcasting companies, this order or notice:

Your license from the American Federation of Musicians for the employment of its members in the making of musical recordings will expire on July 31, 1942, and will not be renewed.

That is, that recordings would be stopped. These recordings are most important in the sick room and in all places of amusement. Under that order records could not be gotten such as are used in restaurants, in music boxes into which a nickel or a 10-cent piece is dropped and music comes forth. That notice was intended to prevent the preparation of such records entirely. The Senator from Montana [Mr. WHEELER], on page 30 of the record, made the following statement which is rather interesting:

Senator WHEELER. Coming back to the question I asked you, what is your solution of it?

The Senator was talking to Mr. Petrillo.

What do you want? You must have given a lot of thought and a lot of study to this problem. So far as I am concerned, I am sympathetic with the idea that the musicians of the country get what is really coming to them. But I do want to know, and I think the public wants to know, because nobody has stated what you want and from whom you want it. You have given a great deal of thought and study to the subject, and your organization ought to have something in mind so that you could tell the committee.

The Senator from Montana asked him at different times if he would say what he wanted, and I think after a while we come to it. The Senator from Montana said:

I think you owe it to yourself, because, frankly, whether it is propaganda or whatever it is, the fact is that the American public is very much disturbed and a great people feel that by your actions you are doing a great disservice to the labor movement in this country. Can you not give us just exactly what your solution is? It may not be one that will be accepted by the industry or the broadcasters or somebody else; but you ought to have in mind what your views are as to what the solution of the problem is, what you want and from whom you want it. Tell us that, if you will.

Mr. PETRILLO. Of course, Senator, I believe you know by this time in the few minutes that I have been sitting here that I am not trying to duck anything; I don't want to say anything that I will have to retract. That I don't want to do. I told you in the beginning that it is a hard question to answer. It seems to me that the people we have got to do business with are the recording companies. But the radio companies have taken on the fight instead of the recording companies. Of course, I can understand that they will be hit indirectly if the recording companies don't make any records because of the action of the American Federation of Musicians. Naturally it is going to hurt the radio stations, and I can understand why they are in this fight.

How it reaches the radio stations was brought out by this. Many radio stations, of course, cannot use the living

musicians. They cannot afford to have a living musician sing or play each time they want to broadcast a selection of music. Therefore, they are in the position of not being able to have music at all. They cannot use records if records cannot be prepared. Of course, there are some records in existence, but if no new ones can be made those who operate radio stations are going to find themselves without music. In that hearing it came out that there are literally hundreds of radio stations that are not in any way connected with chain broadcasting and could not supply music unless they could obtain records.

The Senator from Maine [Mr. WHITE] asked at that time this question, which appears on page 32 of the record:

Do you mean that you are against the recording instruments and electrical transcriptions because they compete with the live musicians, as you call them?

Mr. PETRILLO. That is right.

Senator WHITE. Is that the only reason you have?

Mr. PETRILLO. Because it competes with us and takes our work away; yes.

Mr. Petrillo is against the making of records. On page 40 of the testimony, Mr. Petrillo said:

Let me see if I can't answer you this way. I have a note here that says we have 201 stations in the United States today that receive chain programs. They receive our finest symphonies and orchestras over the air without any cost. They receive our name bands from the hotels and cafes without any cost. They buy and play all the recordings.

They not only get all this free of charge from the musicians, but the chain companies pay them for taking commercial programs. Now, in 201 stations in the United States we haven't got one live musician on the pay roll, and certainly not one of these 201 stations could live without the American Federation of Musicians. Now, we haven't got one man in the radio stations. Now, gentlemen, certainly that is not fair.

His position is clearly that the live musician must be used in order to comply with his demands.

On page 63 of the hearings we find the following:

Senator McFARLAND. But you know, do you not, Mr. Petrillo, that there are a large number of stations that do not even have hook-ups with these broadcasting companies?

Mr. PETRILLO. Yes; I know that.

Senator McFARLAND. They are little stations. And the only type of music that they can get, good music, is from the chain broadcasting companies. Now, you would not want one of your good orchestras barred from the little towns out in the country, to those people, would you?

Mr. PETRILLO. I don't know whether there is a station or city in the United States that hasn't got chain broadcasting.

Senator McFARLAND. Well, I can tell you that there are lots of them.

Senator WHEELER. Oh, yes; lots of them.

Senator CLARK. Lots of them.

Senator McFARLAND. Yes, there are lots of them. Now, you would not want one of your good orchestras barred from those little stations, would you? They probably could not afford to hook up now.

Mr. PETRILLO. They could not afford to pay it.

So that, even according to Mr. Petrillo's own admission, if he has his way, many of the broadcasting stations are going to be cut out. I believe the statement was made at that hearing that

probably one-third of the broadcasting stations of the Nation would have to close up if Petrillo is successful in preventing the making of records.

On page 66 the Senator from Montana [Mr. WHEELER] said:

But, Mr. Petrillo, I did send for you and suggested that you and the industry get together, with some of the members of this committee, and see if we could not work out some program, and you sent word back to us that you did not want to meet with us, because of the fact that you felt you were going to get together. However, you never showed up.

That is all preliminary to this announcement which Mr. Petrillo sent out that there was not going to be a renewal of contracts for the making of records. He was determined that the making of records must be stopped. He stated his position plainly. In response to a question by the Senator from Arizona [Mr. McFARLAND] he stated that there was just one thing that had to be done, and that that was the only thing that would answer his purpose, namely, the stopping of the making of records. That situation brought about the prohibitions in this bill. I do not see anything particularly objectionable about prohibiting any unlawful procedure to do an unlawful thing. This conduct on the part of Mr. Petrillo has made it necessary to place certain prohibitions in the bill.

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

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

Mr. TUNNELL. I yield.

Mr. TAYLOR. The things which are prohibited are not unlawful. The bill simply says that they may not be done. It does not say that they are against the law.

Mr. TUNNELL. They will be unlawful after the bill is passed.

Mr. TAYLOR. No; they will not be unlawful. It will be unlawful to use certain means to accomplish certain ends. If one can make an agreement with a radio station he can do those things. They are not unlawful; but certain means to accomplish those ends may not be used.

Mr. TUNNELL. I think the Senator would conclude, if he happened to be charged with violating this proposed law, that the violation probably was unlawful, because on page 2 of the report is the following language:

Whoever willfully violates any provision of subsection (a) or (b) of this section shall, upon conviction thereof, be punished by imprisonment for not more than 1 year or by a fine of not more than \$1,000, or both.

I believe it would be unlawful.

Mr. TAYLOR. Of course, the person could be placed in jail, but the act for which he was put in jail would not in itself be unlawful. He would be in jail simply because he had used a certain method of attaining an end. On another radio station the employees might have an agreement, openly arrived at, and involving no strike, and they might be doing the very same things, and be scot free. But the other person would be put in jail because he had used certain means to

accomplish the same end. It is not the act itself which is made unlawful. It is the method used to reach the end which is unlawful. As the Senator from Colorado [Mr. JOHNSON] stated awhile ago, it is not the murder which is outlawed. It is the way in which it is done. One may not use certain means to commit murder. If he can murder the other fellow, and it is agreeable to the other fellow, then it is all right.

Mr. TUNNELL. Let me say to the Senator that the conduct of those who are following the plan of Mr. Petrillo is such that while they are not committing murder, rape, or arson, they are doing something which is injuring the American people just as much, perhaps. If this bill does not make these acts unlawful, I should like to find some way to do it. A person may be put in jail or fined, and if his conduct has not been unlawful in my opinion he would be able to get out through a habeas corpus proceeding, or in some other way. I do not believe that the argument that these acts would not be unlawful would be very convincing to an appellate court, and might not even convince a nisi prius court.

The point is that these acts have become so objectionable to the American people that something must be done about it. Mr. Petrillo and his colleagues go outside of business and try to prevent the entertainment of people, involving broadcasts by children in a school. As Mr. Petrillo says, there can be no other answer than the complete stoppage of all making of records. That is his objective, and that is the only thing that will answer his purpose.

If the objective of Congress is not sufficient, I do not understand the purpose of the Congress. I have found no one who defends the action of Mr. Petrillo. The only objection that is made to the bill is by those who say, "Yes; Petrillo ought to be stopped, but do not let the bill become too broad." I agree entirely with that philosophy. It was not the intention of those who wrote the bill—because I heard them express themselves—to reach anyone except those who are doing the things prohibited by the bill; nor did the conferees have any such intention. I do not believe that the bill would reach any further. I entirely agree with Senators who have expressed themselves. I do not believe that the bill reaches those on whose behalf Senators are solicitous. I do not believe that any injustice will be done. I know that such is not the intention. There is no intention to reach the innocent. Certainly there is no reason why Members of the House or the Senate should want to reach innocent people, or interfere with the enforcement of their rights or obligations.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

Mr. TUNNELL. I yield.

Mr. LA FOLLETTE. I very much regret that I have not had an opportunity to study this proposed legislation. I have been absorbed in other matters. However, one point has been brought to my attention upon which I should like to have the opinion of the Senator from Delaware.

I do not know too much about the contracts which are in existence between the artists, the writers' guilds, and so forth, and the broadcasting companies. But, as I understand, for example, the contracts now in existence provide that if an artist or a group of artists give a performance on a radio station or a radio chain—a live performance, let us say—and a record is made of the performance and the record is later used, those who participated in either the preparation or performance of the program, under contracts which have been freely negotiated with the companies, shall receive additional compensation for the second use of the program in the form of a transcription.

Those people have been concerned because they have been advised by their legal counsel that he is apprehensive that the prohibitions contained in the bill would deprive artists and writers' guilds, when they come to renegotiate their contracts in the fall, when they expire, of their bargaining power, because, in order to reach some other practice, language has been employed by the conferees which would prohibit them from using their collective-bargaining power and their right to strike in attempting to renegotiate their contracts.

I should like to ask the Senator what his interpretation is, and what he understands the interpretation of the other conferees to be, with respect to subsection (c), and whether he believes that the apprehension which I have just voiced on the part of artists and writers is justified.

Mr. TUNNELL. Was the Senator present at the beginning of this discussion, when we went into that question? I do not believe he was.

Mr. LA FOLLETTE. I heard portions of it; and I also heard the Senator from Vermont [Mr. AUSTIN] make a statement which seemed to me to confirm this apprehension in the minds of those whom I have mentioned. The Senator from Vermont stated that the prohibitions in the specified categories would deprive anyone in the future from using his collective-bargaining power, and ultimately his right to strike, if necessary, in negotiating a new contract.

It seems to me, at first blush, that there is nothing against public policy in a provision in a contract that if a broadcasting chain hires an individual to give one performance, and he is paid on that basis, but at the same time the broadcasting company makes a transcription of the performance, if it wishes to use that transcription later it is obligated to pay additional compensation for what practically amounts to a second performance. Personally I can see nothing against public policy in such a provision. The performer is paid for one performance; and if the broadcasting company wishes to use the transcription later, and obtains additional revenue as a result of such second use of the performance, it seems to me that there is nothing contrary to public policy in providing that there should be additional compensation paid to those who have produced the first performance.

Mr. TUNNELL. Of course, the Senator knows that the bill is not intended

to cover a situation such as he describes, or to prevent contracting for that very purpose.

Mr. LA FOLLETTE. I know that contracting is not prohibited; but the point is that this provision, as I understand, was negotiated in contracts when there was no prohibition against artists and others using the right which all other Americans have, to quit their work or strike, if necessary. I understand that the record shows that they have rarely used that right.

But now, as I understand, if I have correctly described the situation, when the time comes to negotiate new contracts next fall, artists and writers' guilds will not be in the same position in which they were when they negotiated their contracts in the first place. In the meantime this bill will have become law. According to their apprehension about the matter, which I have described, they would be prohibited from using their collective-bargaining power or their right to strike if the broadcasting company refused to incorporate such a provision in a new contract.

Mr. TUNNELL. I do not see anything in the measure which would warrant that conclusion.

Mr. JOHNSON of Colorado. Mr. President, will the Senator yield?

Mr. TUNNELL. I yield.

Mr. JOHNSON of Colorado. I, too, see nothing in the measure which would warrant that conclusion, because the freedom to make contracts would still exist.

Mr. LA FOLLETTE. Yes; but the Senator himself has been a member of a labor organization, and he knows that the ultimate power which gives a union or a guild any economic power in relation to the employer is its collective right, if it cannot obtain terms and conditions which it thinks equitable and just, to refuse to work any longer for the employer. That might be said about all labor. We might say, "We can deprive every labor organization in America of the right to strike"—if that were constitutional, although I do not believe it is; but the Senator could say, "We are going to deprive all labor organizations in America of the right to strike, but they still will have the right to negotiate contracts."

Mr. JOHNSON of Colorado. Of course, Mr. President, that is not the situation. The artist can either give a performance or not give one. He is a free agent in that respect.

Mr. LA FOLLETTE. We could say that the employees of the Denver & Rio Grande Railroad do not have to work for the Denver & Rio Grande Railroad, but can work for some other railroad.

Mr. JOHNSON of Colorado. No; that is an entirely different situation.

Mr. LA FOLLETTE. Why is it?

Mr. JOHNSON of Colorado. Because the artist deals with a broadcasting station, to put on a performance.

Mr. LA FOLLETTE. As I understand, these are standard contracts which govern everyone in the guild, everyone who belongs to the organization. Of course, the individual may make a different bargain with the advertising agent or whoever puts on the program. He may ob-

tain a higher price for his performance than some other person does. But, so far as the so-called basic agreement is concerned, as I understand, it applies to everyone, and the terms and conditions of the master agreement apply to all the individual contracts.

Mr. JOHNSON of Colorado. Mr. President, I do not wish to take too much of the time of the Senator from Delaware—

Mr. TUNNELL. That is quite all right.

Mr. JOHNSON of Colorado. But I should like to say that my understanding is that, of course, the contract is entered into freely on both sides; and if duress or threats or anything of that kind are not used, of course, the contract is valid.

Mr. LA FOLLETTE. Mr. President, the Senator from Colorado speaks of entering into the contract freely. It seems to me that the Senator is laboring under the misapprehension that these contracts are negotiated by individuals. They are not. As I understand the situation, it is just like that in relation to the Actors' Equity or the Authors' Guild or the Screen Writers' Guild or—I do not know what their names are—any other guild or group of people or artists who negotiate a contract with these companies. The contract covers everyone who belongs to that organization. It does not set out the compensation which all the individuals shall receive, but it sets a basic pattern. Then the individual artist is, of course, free to negotiate about the rate of compensation, with the persons who wish to employ his talent.

The point is that we would deprive these people of the right to quit work collectively, which is the right of all other employees in the United States. As a result, when they came to renegotiate their contracts, as I understand the situation, one of the prohibitions among the nine contained in this measure, so they contend, would prevent them from using the right and the power which they had when the contract was negotiated this year. They say that when the time came to renegotiate the contract, they would be deprived of that right; and they take the position that then all the companies could simply say, "Oh, well, that is prohibited. We are not going to have that in the contract." All the companies could get together and agree about that. There is nothing in the measure to prohibit them from banding together and saying, "Since Congress has made this unlawful, we will not even enter into negotiations about it with you. Congress has interdicted this and has banned this as a matter of public policy."

As I have said, I do not know very much about this matter. This bill came from a committee of which I am not a member, and I have been swamped with other matters. This matter was explained to me ex parte. But, as it was explained to me, I could not see anything wrong with a basic agreement or contract providing that if a person is paid for one performance, and if subsequently an additional performance is utilized through a transcription for which the companies receive additional money in the way of advertising fees, and so forth,

the person who has performed originally shall receive additional compensation for the second performance, even though it is not alive, but is dead, so to speak, being in the form of a transcription.

If any Senator can point out to me that that is against public policy, I shall be very glad to have him do so. But it strikes me that such an arrangement would be only fair. In other words, if I were to engage the Senator from Minnesota as an artist on a program and if I paid him for one performance, and then I cut a transcription of it, I see nothing against public policy in providing that if I should later sell that program to some other advertiser and I received additional money for it, I should have an understanding that the Senator from Minnesota would be entitled to payment for the second performance, even though he was not there in person. Regardless of that, it would be his talent, his ability, and his following that I would have capitalized and received revenue for, on the second occasion.

Is there anything wrong with that, insofar as public policy is concerned?

Mr. TUNNELL. Mr. President, I would say to the Senator that he and I are proceeding on entirely different premises. I do not deny the Senator's argument, but I do deny his premise.

Mr. LA FOLLETTE. Very well. That is all I wish to have assurance of—namely, that I am wrong about this. If I am wrong about it, I should be delighted to find that out.

Mr. TUNNELL. I say to the Senator that if he is right in his argument, then I am opposed to the provision.

Mr. LA FOLLETTE. Let me read paragraph (3) of subsection (b):

(3) To pay or agree to pay any exaction on account of the broadcasting—

I do not know what "exaction" means, but I suppose it means money.

Mr. JOHNSON of Colorado. It means a tribute. In the House language the word "tribute" was used, and the conferees changed the word "tribute" to "exaction."

Mr. LA FOLLETTE. At any rate, this is paragraph (3):

(3) To pay or agree to pay any exaction on account of the broadcasting, by means of recordings or transcriptions, of a program previously broadcast, payment having been made, or agreed to be made, for the services actually rendered in the performance of such program.

Of course, I suppose it all hinges on what "exaction" means. But if that word covers compensation or additional compensation, then it seems to me it would be one of the interdicted misdemeanors, as the Senator from Vermont calls them.

Mr. TUNNELL. Mr. President, I might read to the Senator the definition; I think I have here a book which states it.

Mr. HATCH. Mr. President, while the Senator from Delaware is looking for the book, will he yield to me? I wish to ask the Senator from Wisconsin a question.

Mr. TUNNELL. I yield.

Mr. HATCH. Is the language which the Senator has just read—the language contained in paragraph (3)—the only

language in the measure about which he is wondering? I am anxious to know if that is so.

Mr. LA FOLLETTE. No; I am not certain about that; I am not certain that that is the only paragraph about which I wish to inquire.

Mr. HATCH. Is that the specific one about which complaint was made to the Senator? I am anxious to understand the contention and to know just what it is and where the language about which complaint has been made appears.

Mr. LA FOLLETTE. I must confess that I was called off the floor of the Senate yesterday in the midst of the debate on all the amendments which we were considering in connection with the wage-and-hour bill, and I am not too sure that I have located the only paragraph about which complaint is made. But I read that one as one which caught my eye and which might include the language about which objection has been made. It might be one of those which would include it.

Mr. TUNNELL. Mr. President, the Senator asked about the word "exaction." Here is the definition of "exaction" as contained in Bouvier:

A willful wrong done by an officer, or by one who, under color of his office, takes more fee or pay for his services than the law allows.

That is an "exaction."

Mr. LA FOLLETTE. Mr. President, that does not seem to be on all fours with this situation. This matter does not relate to an officer of the Government.

Mr. TUNNELL. Petrillo is an officer of the union, and is the one who is exacting these tributes.

Mr. LA FOLLETTE. I am not talking about that situation now. I am talking about the contracts of these artists and authors.

Mr. TUNNELL. Does not the Senator think that he is somewhat confused by not reading all of the prohibition contained in subsection (b) (3)? It reads as follows:

(b) It shall be unlawful, by the use or express or implied threat of the use of force, violence, intimidation, or duress, or by the use or express or implied threat of the use of other means, to coerce, compel, or constrain or attempt to coerce, compel, or constrain a licensee or any other person—

(3) To pay or agree to pay any exaction on account of the broadcasting, by means of recordings or transcriptions, of a program previously broadcast, payment having been made, or agreed to be made, for the services actually rendered in the performance of such program.

Mr. LA FOLLETTE. But I heard the Senator from Vermont say everyone agreed that the words "other means" included the right to strike.

Mr. TUNNELL. After this prohibition was put into the act there was then inserted subsection (c), which satisfied me, and still does, to the effect that no person will be prohibited from insisting on his legal rights or his legal obligations. The language in subsection (c) reads:

The provisions of subsection (a) or (b)—

Which includes paragraph (3), to which the Senator referred—

of this section shall not be held to make unlawful the enforcement or attempted enforcement, by means lawfully employed, or any contract right heretofore or hereafter existing or of any legal obligation heretofore or hereafter incurred or assumed.

Mr. LA FOLLETTE. I would say that, if the Senator's interpretation is correct, and if these guilds are not prohibited from using their right to strike, in the event that they find during the course of their negotiations for new contracts that a strike is necessary in order to bring about the situation which I have described, then my apprehensions are set at rest.

Mr. BALL. Mr. President, if the Senator from Wisconsin is correct with reference to the effect which subsection (c) has, then, in my opinion, it would make the whole section meaningless.

Mr. TAYLOR. It would make it inoperative and would cancel the effect of the bill.

Mr. BALL. The language would mean that any of the featherbedding practices which an attempt is being made to outlaw in subsection (a), which are now in effect, would be frozen into the contract in perpetuity. Is that the Senator's interpretation?

Mr. TUNNELL. My theory is that a person has the right to use any lawful means, and I think that in most instances strikes are a form of lawful means.

Mr. BALL. It seems to me that the language of subsection (c) is being stretched. It contains the words "enforcement or attempted enforcement, by means lawfully employed, of any contract right," and so forth. When a contract expires, the contract right expires.

Mr. LA FOLLETTE. Certainly.

Mr. BALL. It seems to me that in subsections (a) and (b) we have made unlawful the use of a strike to compel an employer to sign a contract, even though it is the same contract which existed before. If that has not been done, then I do not see what use can be made of the entire section.

Mr. LA FOLLETTE. Mr. President, I am not trying to defend any featherbedding practices, but the contention seems to me to be well-founded that a person is entitled to additional compensation if he is paid on the basis of one performance, and then, through transcription, the employer receives additional revenue. In such a case it would be perfectly legitimate to provide in the contract that there should be an additional compensation paid to the person doing the work.

Mr. BALL. I agree with the Senator.

Mr. TUNNELL. I think the Senator is correct.

Mr. BALL. But I am afraid that the language of the section would make it questionable whether the employee would have a right to strike in order to secure such privilege.

Mr. LA FOLLETTE. That is my impression, but I have had no opportunity to study the matter.

Mr. TUNNELL. Mr. President, allow me to read the names of the Members of the other House who were in agreement with this language. They are CLARENCE

F. LEA, A. L. BULWINKLE, OREN HARRIS, CARROLL REECE, and CLARENCE J. BROWN.

I am satisfied that the language is adequate and proper and the men whose names I have read seemed to be entirely satisfied with it. I do not know how we could obtain must better legal advice than we have had on the subject.

Mr. HATCH. Mr. President, I have not been so much concerned about the language in subparagraph (c), but I should like to know by what language in the bill we can arrive at the interpretation or conclusion that the right of collective bargaining is forbidden.

Mr. TUNNELL. I do not know.

Mr. HATCH. I have asked the Senator from Idaho, who has studied the bill, and he has told me that the restriction lies in the use of the words "other means." Am I correct in understanding that those are the words which he has in mind?

Mr. TAYLOR. The words "other means" are all-encompassing.

Mr. HATCH. Is the Senator from Delaware convinced that the language of the bill does not preclude the right of collective bargaining and the right to strike?

Mr. TUNNELL. I am convinced that those rights are not precluded.

Mr. JOHNSON of Colorado. I am also convinced that they are not precluded. There is nothing in the bill against collective bargaining. The prohibition is against the use of duress, threats, intimidation, and coercion.

Mr. HATCH. Those words have very well defined legal meaning. If everything were related to those words, I would not see anything which could be disturbing. However, there is some question with reference to the words "use of other means."

Mr. JOHNSON of Colorado. If the Senator from Delaware will permit me to say so, I may say that I think one must read very carefully the first sentence in section 506 (a). The language reads: It shall be unlawful—

And then skipping a few words—

to coerce, compel, or constrain, or attempt to coerce, compel, or constrain a licensee—

And so on. Personally, I did not think that the language added anything to the strength of the paragraph. However, it was put in by the other House.

Mr. TUNNELL. Mr. President, before I take my seat I wish to read another short portion of the evidence which appears on page 44 of the record from which I have previously read. The questions and answers were as follows:

Senator TUNNELL. Mr. Petrillo, what percentage of the musicians of the company belong to your union?

Mr. PETRILLO. Senator, I will say right now that every professional musician in the United States and Canada belongs to the American Federation of Musicians.

Senator TUNNELL. Every one does.

Mr. PETRILLO. Yes, sir.

Senator McFARLAND. Now, isn't that your unique position that you are talking about?

Mr. PETRILLO. I will say yes.

Senator McFARLAND. Now, if that is correct, following up Senator WHEELER's question, is it not absolutely necessary that you stop all recordings in order to accomplish your purpose?

Mr. PETRILLO. Yes.

Mr. President, that is what we are trying to eliminate by this bill. We are trying to eliminate those arbitrary acts on the part of men of the Petrillo type who attempt to prevent recordings in America. The bill attempts to eliminate the requirement that there must be hired one or more employees who are not needed, a practice which I am told is called featherbedding. That practice has been followed in order to enable the broadcasters to obtain records.

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

The PRESIDING OFFICER (Mr. CARVILLE in the chair). The clerk will call the roll.

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

Aiken	Gossett	Millikin
Austin	Green	Mitchell
Ball	Guffey	Moore
Bankhead	Gurney	Murray
Barkley	Hart	O'Daniel
Blibo	Hatch	O'Mahoney
Bridges	Hayden	Reed
Brooks	Hickenlooper	Revercomb
Capper	Hoey	Shipstead
Carville	Johnson, Colo.	Taylor
Connally	Johnston, S. C.	Tunnell
Cordon	La Follette	Vandenberg
Donnell	Langer	Wherry
Downey	McClellan	White
Ehlander	McFarland	Wiley
Ferguson	McKellar	Willis
Fulbright	McMahon	Young
Gerry	Magnuson	

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

Mr. BARKLEY. Mr. President, I express the hope that Senators will remain in the Chamber. I think we can have a vote on the conference report very shortly, and it would be very much appreciated on the part of all of us if those who are now present will remain.

Mr. TAYLOR. Mr. President, before a vote is taken I should like to make a brief statement. The measure now before the Senate is the so-called Lea bill, which originally left the Senate as the Vandenberg bill and was aimed at curbing Mr. Petrillo, head of the musicians' union, in order to prevent him from keeping school and educational programs off the air. That was the original object of the bill. I repeat, the bill which came back from the conference is not by any manner of means the bill which was originally passed by the Senate. It has been broadened, and I am in receipt of numerous telegrams in relation to it, from individuals in the radio field, from actors, from singers, from writers, and directors. I will say, incidentally, that I have had no communication from Mr. Petrillo or from any musicians. They seem to ignore the bill and feel that it is unconstitutional. That is the attitude they have adopted toward the bill.

We have discussed the bill for some time today and I should like to point out one or two things in it which I think are very objectionable. In the first paragraph it is provided:

It shall be unlawful, by the use or express or implied threat of the use of force, violence, intimidation, or duress, or by the use or express or implied threat of the use of other means, to coerce, compel, or constrain or attempt to coerce, compel, or constrain a licensee—

To do different things. The Senator from Vermont [Mr. AUSTIN] said that included strikes. Strikes are not permitted for any one of a number of different objectives, some of which are now included in the contracts between the radio entertainers' unions and the employers.

Mr. AUSTIN. Mr. President, will the Senator yield at that point?

Mr. TAYLOR. I yield.

Mr. AUSTIN. I think there is a misunderstanding on the part of the distinguished Senator from Idaho about the meaning of my statement. I do not think I said—I certainly did not intend to say—that a strike, which is the sanction behind collective bargaining, is barred by anything in this bill relating to contracts, and if there is a misunderstanding, please let me clear it at once.

Mr. TAYLOR. I certainly do not want to misrepresent the Senator, but that is the way I understood him.

Mr. AUSTIN. This is the point: In subsection (b), paragraph 1, the misdemeanor denounced there is "to pay or agree to pay any exaction." If the Senator will look down to paragraph (3) of subsection (b), he will find that the misdemeanor that is described is "to pay or agree to pay any exaction." Now, notice that that is a selective word. It is a special word. It does not mean compensation, royalty, or other consideration for a contract. When we remember that and realize what the meaning of "exaction" is—that is, that it is an unlawful thing of itself, something not having any consideration for it—it will be seen that the matter of contract is left untouched, and the power of collective bargaining still has behind it the sanction of the power of striking.

I do not want my words to be interpreted to mean that I have represented that these provisions bar the use of the strike as a sanction for collective bargaining. If there is, as I think the distinguished Senator said, a contract right—something that grew out of the conduct of the business in the past—that is preserved by the bill as it is. If it is desired to enter into a new contract and provide for royalties—payment not only of the compensation for the act but for reproductions of it—that is not denounced in any way. It is the payment that amounts to an illegal exaction that is denounced.

The interpretation of "exaction" by Bouvier is very brief and reads as follows:

Exaction: A willful wrong done by an officer, or by one who, under color of his office, takes more fee or pay for his services than the law allows.

Between extortion and exaction there is this difference: That in the former case the officer extorts more than his due, when something is due to him; in the latter, he exacts what is not his due, when there is nothing due to him.

That is why the word "exaction" was adopted in the conference report instead of the word "tribute." Briefly stated, we find tribute to be a contribution which is sometimes raised by the sovereign from his subjects to sustain the expenses of the state. It is also a sum of money paid by one nation to another, under some pretended right. We thought that

the element of sovereignty involved in the use of the word "tribute" might not reflect a precise use of that word, and in order to have our meaning perfectly clear we thought that we had better use the word "exaction." That being what is prohibited, and what is made an offense, the whole field of contracting is untouched by this prohibition. That field covers compensation, royalties, and any other consideration. The right of collective bargaining may be employed in making new contracts, with all its sanctions as they are today. They are not inhibited, prohibited, or proscribed by this bill.

Mr. TAYLOR. Mr. President, I hope the Senator is right. I hope we can take his word for it that that is the meaning of the bill; but not being a lawyer, I cannot hope to undertake to define the meaning of the bill. All I can do is to read it and take it at its face value. The bill provides that it shall be unlawful, by practically any means "to pay or agree to pay any exaction on account of the broadcasting, by means of recordings or transcriptions, of a program previously broadcast, payment having been made, or agreed to be made, for the services actually rendered in the performance of such program."

So it would be against the law to pay again for a program which had been previously performed on the air, and of which a transcription had been taken. It would be against the law to pay any fee again, so naturally it would be an exaction if the performer received any additional fee. The attorneys for the radio artists inform me that under those circumstances the artists would have to make their original fees sufficiently high to include any possible amount of rebroadcasting that might take place. At the present time they charge a reasonable fee for the original broadcast, and there is a provision in the contracts that if there are any subsequent broadcasts they are to be paid each time the performance is rebroadcast; but, if the bill is passed, they will have to increase their fees to take care of the whole thing at one time.

There is another provision, subparagraph (1), which reads as follows:

To employ, or agree to employ, in connection with the conduct of the broadcasting business of such licensee, any person or persons in excess of the number of employees needed by such licensee to perform actual services.

As I have previously pointed out, in the past some actors have played as many as seven parts on one radio program. The artists got together through their unions and decided that two parts were enough for any one person to play without receiving extra compensation. As I understand—I may be wrong—if this bill were enacted into law the performers could no longer say to the radio station operator that two parts were enough for one person to play. The radio station operator would be the one to decide, and the artists would have no protection whatever.

There are other objectionable features to the bill, but I will pass over them and come down to subparagraph (6):

To refrain, or agree to refrain, from broadcasting or permitting the broadcasting of

any radio communication originating outside the United States.

In other words, programs could be sent into this country—"piped," as it is called—from foreign countries, and our local American artists could not object by any means to this practice. The bill says "any program." A studio could even be set up across the border in Mexico to send programs to the United States, and still no objection could be made. It may be said that that would not be done; nevertheless, under the terms of the bill, it could be done. It takes away all protection from our American artists.

In closing, I should like to read an editorial from the Christian Science Monitor:

Even the authors of the wartime antistrike Smith-Connally Act now admit that it failed of its purpose. President Roosevelt vetoed it, but it was promptly passed over his veto. It was a bill directed at John L. Lewis, who did not mind it at all. It was an example of bungling legislation.

Now another bill is practically through Congress, directed at James Caesar Petrillo, head of the AFL musicians' union. It passed the House originally, 222 to 43, last month. On a second vote on the conference version, the House lined up 186 to 16. So far, the Senate has had no opportunity to vote on the measure except as a very much less detailed proposal, which it passed, without record vote, on February 1, 1945. How it will feel toward the Lea version (H. R. 5117) remains to be seen.

Of Mr. Petrillo himself, the less said the better. It is impossible to defend his attitude and his disregard of public opinion.

I wish to make it clear to the Senate that I have not been defending Mr. Petrillo's practice of not allowing cultural programs. I am not defending that. I am here trying to defend the rights of thousands of patriotic Americans who happen to be in the entertainment field in radio.

Mr. Petrillo doesn't seem to know the kind of a world he is living in. He does organized labor a grave disservice.

He certainly has, in this instance, by bringing down upon the whole amusement field this very bad bill.

Under these circumstances, it would seem reasonable that Congress could do a competent job on the abuses which Mr. Petrillo represents. An effective legislature should be able to formulate competent measures to cure a given situation. There is grave doubt, however, whether the House has done so in this instance. According to the legal saying, bad cases make bad laws. It is questionable whether the anti-Petrillo bill, as the House has formulated it, is wise in some of its far-flung provisions; and some conservatives on the floor of the House challenge its constitutionality.

This bill does not apply merely to musicians. It applies to about anybody working on or around broadcasting stations and threatens to set important precedents for almost anybody drawing a royalty.

The language is loose. At one point there is the phrase "by other means," which seems to include strikes, and the penalty for invoking these other means may be a \$10,000 fine or jail sentence of a year. This was too strong for Representative CHARLES A. HALLECK, Republi-

can, of Indiana, a reasonable middle-of-the-roader. He proposed substituting as a penalty, loss of rights under the Wagner Act, the proposal made in the Case bill. The House voted him down. Yet prison terms for refusing to work are surely uncommon in American jurisprudence.

Representative HOWARD W. SMITH, Democrat, of Virginia, coauthor of the Smith-Connally Act, was asked whether workers who violated the provisions would be subjected to indictment, prosecution, and imprisonment.

"If 5 men, or 1 man, or 500 men violate the provisions of this act by doing any one of the things narrated therein," Mr. Smith replied, "we might as well be frank about it, they subject themselves to the penalty of this bill."

Even the implied threat of strikes would apparently expose workers to criminal penalties.

The bill also enters a very complex and debatable head, the field of the artist versus the machine. Musicians have seen their performances recorded and then played over again on radios and juke boxes with misgiving. They are paid for their first performance, but how about all the others from "canned" music? In justice, is not some kind of fee or royalty for reproduction a reasonable objective? An author under copyright gets a royalty on each book sold; a music writer for each sheet of music. How about the performer, himself? Should he be debarred from appropriate fees on the multiple reproduction of his talent by mechanical means?

Perhaps this matter is debatable. But the pending bill seeks to fix the arrangements that are to exist between the musicians and the broadcasting companies. It would apparently ban such musicians' fees, or at least would ban them if they were backed up by strikes, or the threat of strikes.

It is hard to discuss a measure calmly in which James Caesar Petrillo figures. Yet, as one House Member put it, "I come not to praise Caesar—but I do not come, either, to bury the rights of labor."

Mr. President, that editorial expresses my feelings on this question exactly. As I have said, I am not defending Mr. Petrillo. But many radio artists are among our most prominent and most patriotic citizens. They gave freely during the war. They helped to raise money in the bond drives. Many of them served in the armed forces. They went overseas and entertained. It will always be found that people in the theatrical profession and the entertainment field are ready to help any worthy cause. We have not read of strikes upon their part. Nevertheless, they are greatly exercised over the provisions of this bill, and they want the right to bargain without being hog-tied.

Mr. President, I hope the Senate will not do this great injustice to these people who constitute a very patriotic and law-abiding segment of our population.

I ask for a yea-and-nay vote.

The yeas and nays were not ordered.

Mr. WHITE. Mr. President, as a signer of the report, I feel that I would be remiss if I did not state briefly my views about the situation.

I share none of the apprehensions which have been expressed this afternoon concerning the proposed legislation, but I give to it my wholehearted and unqualified approval.

It seems to me that in understanding this measure it is important to have in mind what section 506 (b) provides. I shall read and paraphrase it:

(b) It shall be unlawful, by the use or express or implied threat of the use of force, violence, intimidation, or duress, or by the use or express or implied threat of the use of other means, to coerce, compel, or constrain or attempt to coerce, compel, or constrain a licensee.

To do the particular things which thereafter are set forth in the various subdivisions or subparagraphs of the measure.

I think this main purpose is one which should have the approval of every Senator of the United States, because I cannot believe that anyone of us could give his sanction to coercion, intimidation, threat, or duress for the purpose of compelling, coercing, or constraining an American citizen to do anything that is not lawful and that does not have the sanction of good usage and, as I believe, does not have the sanction of good morality.

I think we are familiar with the particular incidents which gave rise in the first instance to the agitation for such legislation. The first thing which came to my attention was an incident in the State of the distinguished senior Senator from Michigan [Mr. VANDENBERG] at Interlochen, where there was a school for boys and girls studying music, and the school orchestra assumed the right to broadcast over the air as a part of their work and their training. That school orchestra was prevented from broadcasting by order of the organization which has been referred to, unless fees and dues were paid to the organization for the nonperformance of such duties by its members. Mr. President, I think that incident was what brought the situation to the attention of the senior Senator from Michigan and caused him to utter the first word of protest in the Congress of the United States, a protest expressed in the measure known as the Vandenberg bill, Senate bill 63.

Having stated my approval of the general purpose of the measure, I wish to read to the Senate two or three brief comments or statements which were made when this measure was before the House of Representatives. It was before a Senate committee approximately 3 years ago, and it received long and serious attention by the members of a subcommittee of that committee. No legislation resulted from that study. In the House of Representatives only a brief time ago—I do not recall the exact dates—hearings were held on the so-called Vandenberg bill and on an amendment proposed by a Member of the House of Representatives. The then Chairman of the Federal Communications Commission, Mr. Paul Porter, in speaking of the legislation and of the offenses which gave rise to it, made the following statements:

In the first place, this action of the American Federation of Musicians results in a severe restriction being imposed upon what may be broadcast over the air. Under the American system of broadcasting, as you know, the Government is expressly forbidden to dictate to broadcasters what shall and

what shall not be broadcast. This is in order to guarantee a free radio. But more than this is necessary if radio is really to be free. We must make sure that no arbitrary restrictions are imposed by private groups concerning material which shall be broadcast. It is the Commission's constant endeavor to see that the radio industry keeps itself as free as possible of all unreasonable fetters so that radio stations are in a position to discharge their obligation of operating in the public interest. Radio's ability to fulfill this obligation is hampered fully as much when its freedom of action is imposed by a labor organization as when it is self-imposed. If an organization can prevent radio stations from broadcasting a concert by high-school students, a precedent is established whereby broadcasts of speeches, forums, conventions, and so forth, will be prevented. Such a precedent should not be permitted to be established.

Then Mr. Porter, the Chairman of the Federal Communications Commission, made the following further statements:

The second evil is found in the effect of the American Federation of Musicians' action on small stations.

Mr. President, I call this portion of the statement particularly to the attention of those Members of the Senate who come from sparsely settled communities wherein there are no large centers:

We are all familiar with the fact that most professional talent is concentrated in the large cities. For the small station this means that it must to a great extent rely on amateur talent which it can find or develop in the community. Many of these communities have a good deal of latent talent that can be developed to the benefit both of the talent and the community; this is particularly true of communities which have universities located nearby. However, the action of the American Federation of Musicians prevents radio stations from using musical talent of this kind, and if the American Federation of Musicians can prevent the use of musical talent, other groups will direct this activity at dramatic groups, singers, and so forth. Such action will force small stations either to broadcast network programs all day or to use records and transcriptions instead of developing their own individuality and contributing to the growth of their community.

I think that from what I have said you can realize the importance, so far as radio is concerned, of preventing arbitrary restrictions on the use of noncommercial educational or cultural programs such as that of Interlochen.

I commend that statement to the Members of the Senate. It is sound in every particular.

Mr. President, there is one other consideration to which I wish to allude briefly. We speak about a free radio. We have endeavored, in assuring a free radio to the people of this country, to assert Federal jurisdiction over the channels of the air and over the control and licensing of all those who use the air for broadcasting. We have placed certain regulations and authorities over that activity, and we have vested in the Federal Communications Commission certain responsibilities. That Commission determines the channels of the air on which stations shall operate, the time of day when they shall operate, and whether the stations are conforming to the technical requirements laid down by the Commission. We also have imposed upon the Commission, by existing law, the obligation to see to it

that the stations serve a public interest, a public convenience, or a public necessity.

I say to the Members of the Senate that if we are to admit for a single moment that anyone other than the broadcasting stations, subject to the jurisdiction of the Commission, is to determine what shall or what shall not be broadcast over the air in the United States, we shall have taken from the Federal Communications Commission the responsibility which must be its, if we are to have an ordered system of radio communication in this Nation.

Mr. President, I think the conference report deserves the approbation of the Senate, and I hope it may receive the favorable votes of all Members of the Senate.

SEVERAL SENATORS. Vote! Vote!

Mr. O'MAHONEY. Mr. President, will the Senator from Maine yield to me before he suspends?

Mr. WHITE. I yield.

Mr. O'MAHONEY. I have not had an opportunity to read the report today. The questions which have been raised by the able Senator from Idaho are serious questions which should be answered explicitly upon the record, it seems to me, if we are to vote understandingly upon this question.

I should also like to invite the attention of the senior Senator from Vermont to the questions I am about to ask.

Mr. WHITE. I shall yield to the Senator from Vermont.

Mr. O'MAHONEY. It has frequently been said, Mr. President, that a law is to be judged in its meaning, not so much by the subjective thought of its authors as by what they actually say. When we pass upon this report we must be clear in our own minds whether the language embodied in it goes beyond the correction of the admitted abuses which have been recited by the Senator from Maine and by others in connection with the particular case discussed.

So now, with respect to the interpretation of section 506 (a), I should like to ask the Senator the question which was raised by the Senator from Idaho. What is the meaning of the prohibition against "the use of other means, to coerce, compel, or constrain, or attempt to coerce, compel, or constrain a licensee" from doing any of the following six prohibitions? If, in the ordinary course of collective bargaining, a strike takes place for the purpose of enforcing the objectives which the strikers seek to attain, can it be said that such a collective bargaining strike, authorized by law, compels or constrains one of the parties to the agreement to adopt a certain policy?

Mr. WHITE. I will speak for myself, and then I shall let the Senator from Vermont speak with greater authority than I can speak. But, in my opinion, a strike may be lawful or it may be unlawful. If a strike is lawful I do not believe it is prohibited by this proposed legislation.

Mr. O'MAHONEY. Mr. President, that is not the question. The question is, What is the meaning and effect, and what meaning and effect would the court give to the words "to coerce, compel, or

constrain" when used in connection with the other words "other means"? It must be admitted, I imagine, that no one would raise any question to the prohibition against "the use or express or implied threat of the use of force, violence, intimidation, or duress." But those questions are not here involved because the language of the section goes further and says, "or by the use or express or implied threat of the use of other means." So, Mr. President, it becomes essential to determine what other means are entitled to be employed, and whether an ordinary strike must be interpreted as a threat to compel or to constrain one of the groups involved in the collective bargaining.

Mr. WHITE. Mr. President, I return to what I had undertaken to say a minute ago. If a strike is lawful and for a lawful purpose, I do not believe it is breached or prohibited, or circumscribed in any degree by the proposed legislation. I understand that is substantially the view which has been expressed by the Senator from Vermont, but he can answer more fully than can I.

Mr. O'MAHONEY. But when the Senator says "if a strike is lawful," he overlooks the fact that we are here creating a new unlawful act.

Mr. WHITE. I cannot undertake to enumerate all strikes which might be lawful.

Mr. O'MAHONEY. I ask the Senator to enumerate merely one.

Mr. WHITE. I have said that I thought a strike for a lawful purpose was not inhibited or prohibited by this proposal.

Mr. O'MAHONEY. Very well. Let me give the Senator a precise example.

Mr. WHITE. I think it is probably true that as cases arise there will be court action and court decisions as to a great many of these questions with reference to what is or is not a lawful strike.

Mr. O'MAHONEY. But when we undertake to make a new law we must at least be precise in our own minds as to what the words which we are using are intended to mean.

If the Senator will bear with me, I should like to read paragraph No. 1 of section 506 (a). First, allow me to say that it will be observed that one of the things which it will be unlawful to coerce, compel, or constrain, or attempt to coerce, compel, or constrain a licensee into doing is this:

(1) to employ or agree to employ, in connection with the conduct of the broadcasting business of such licensee, any person or persons in excess of the number of employees needed by such licensee to perform actual services.

I have read the conference report from the beginning to end, and I find no language in it which provides who shall determine whether or not the number of employees which the employer must employ is in excess of the number required to perform a certain function.

Mr. WHITE. I would say, without hesitation, that in all instances the employer should determine the question.

Mr. O'MAHONEY. Will the Senator allow me to complete the picture which I have in mind?

Mr. JOHNSON of Colorado. Mr. President, the Senator has asked a question. He has stated that it does not appear at

any place in the bill that any person makes a determination. This is a penal statute, and the district court, as will be found on page 2, subparagraph (d) of the report, makes the determination.

Mr. O'MAHONEY. Mr. President, I disagree with the Senator. Subparagraph (d) states:

Whoever willfully violates any provision of subsection (a) or (b) of this section shall, upon conviction thereof, be punished by imprisonment for not more than 1 year or by a fine of not more than \$1,000, or both.

Mr. JOHNSON of Colorado. And who determines that? The court determines it.

Mr. O'MAHONEY. Certainly the court determines it, but I am asking who determines whether or not the number of employees is in excess of the number needed.

Mr. JOHNSON of Colorado. The court.

Mr. O'MAHONEY. Oh, no; because here we are condemning a certain act. If we are to condemn an act we must know precisely what the act is which we condemn. Let me give the Senator the illustration which I had in mind.

Mr. WHITE. Mr. President, will the Senator first allow me to answer his question?

Mr. O'MAHONEY. If the Senator will permit me to give the illustration, then he may answer the question. The illustration which I have in mind is this: Assume that in a broadcasting studio there are three artists who are performing night after night, on a particular program, and that they come to the conclusion that the strain upon their voices or the work which has been placed on their shoulders is too heavy, and they say to the broadcasting studio, "There ought to be five persons carrying on this program." Assume further that the broadcasting management replies, "No; three is enough." Then those three persons say, "Very well, we strike to make you employ five." Would such an act come within the prohibition of the proposed legislation?

Mr. WHITE. Beginning with the Senator's question, I think the first obligation of everyone concerned would be to negotiate and see if they could, by discussion and by concession, reach an agreement. If they could not and they arrived at an impasse, I think the employees could strike if they wished to do so. If they walked out, I think they would be doing something legal. I think they could then—

Mr. O'MAHONEY. I think the Senator's answer helps to clarify the proposed measure.

Mr. WHITE. I think the strike would be a legal one if the employees did not wish to continue any longer in the services of their employer.

Mr. O'MAHONEY. Does the Senator from Vermont agree that a strike under those circumstances would not come within the prohibition of this bill?

Mr. AUSTIN. Mr. President, the difficulty is in the circumstances. It is always a question of fact whether a person or a group of persons has committed a misdemeanor. The fact, in every case, depends on intent. If a group of em-

ployees say, for example, "There are too few of us to perform the work in justice to ourselves," and the employer replies, "No," a disagreement exists. The employees go out on a strike. Now, let the employer, at his risk, prosecute the strikers for violation of section 506 (a) (1). He takes the risk of failing to prove that the strike is a willful violation of the act. He is now before a tribunal which can determine the question.

In respect to their collective bargaining and their joint action, the strikers have not at all interfered with the law and the use of a lawful method of striking, unless it turns out that they were in the wrong, and that their act was a willful act against the law.

Mr. O'MAHONEY. The purpose of the inquiry, if I may say so to the Senator, is to determine what constitutes a willful act against the law. I gave the Senator the illustration of a precise situation. It arises by reason of the difficulty which Senators have had in interpreting the meaning of the words "other means."

Mr. AUSTIN. That is not difficult at all. We should not find it necessary again to go all over those words. We have been over them four or five times today, and the CONGRESSIONAL RECORD will help the Senator with regard to a definition of "other means." The RECORD definitely shows that the words include boycotts and strikes.

Mr. O'MAHONEY. Very well. That is precisely the point.

Mr. AUSTIN. There cannot be any ambiguity about it. The Senator has not been able himself to decide this question of fact, and he will not be able to do so in advance of the commission of one of these acts, such as compelling an employer to employ persons in excess of the number of employees needed. That is a fact to be found before anyone can have committed an offense under this law.

Mr. O'MAHONEY. Who is to determine how many employees are needed?

Mr. AUSTIN. The court. Assuming the employer and his employees agree, then there is not any issue.

Mr. O'MAHONEY. So I understand the Senator to say that in the event there are three or four or five employees in a broadcasting studio, and they in good faith believe that the work they are being called upon to perform should be performed by a larger number of persons, and they strike to bring their employer to that point of view, they are invoking the possibility that they may be prosecuted under the proposed law. Is that correct?

Mr. AUSTIN. In my opinion the words "in good faith" do not add anything to it at all.

Mr. O'MAHONEY. Then, why not strike them out.

Mr. AUSTIN. If we strike them out, the question becomes a question of fact, and no one can in advance decide that. If the Senator is willing to assume as a cold fact, not subject to controversy, not subject to the phrase "in good faith believe," that the number of persons they are striking for are indeed in excess of the number needed, then of course they would come under the law. If not, they would not.

Mr. O'MAHONEY. If the number is not actually in excess of the number needed, nevertheless, if the employer refuses to confer, the employees would at the same time be invoking the possibility of the application of the proposed law?

Mr. AUSTIN. Exactly; they take the risk.

Mr. O'MAHONEY. The Senator is very frank and clear, as always.

Mr. HATCH. Mr. President, I desire to say just one word. I do not know whether there is to be a roll call on the adoption of the report; but I wish to say that I am going to vote for the report, whether by roll call or otherwise. I do so with some misgiving as to certain of the language contained in the report. But in the light of the explanations which have been made on the floor of the Senate by distinguished Senators, I am quite sure that some of the fears expressed by the Senator from Idaho [Mr. TAYLOR], the Senator from Wisconsin [Mr. LA FOLLETTE], and the Senator from Minnesota [Mr. BALL] are unjustified and ungrounded. On the whole, the bill had better be enacted than not be enacted.

Personally I dislike very much to see criminal provisions put into labor legislation. I do not like that procedure, but under the existing circumstances I see perhaps no other adequate remedy. At least, it is too late now to try to adopt any other.

For the reasons I have stated, Mr. President, I shall vote for the conference report.

The PRESIDENT pro tempore. The question is on agreeing to the conference report.

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

The yeas and nays were ordered.

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

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

The Chief Clerk proceeded to call the roll.

Mr. WHITE. Mr. President, if I may be permitted, I desire to withdraw my point of no quorum.

The PRESIDENT pro tempore. Is there objection?

Mr. TAYLOR. I object.

The PRESIDENT pro tempore. The clerk will resume the calling of the roll.

The Chief Clerk resumed calling the roll.

Mr. TAYLOR. Mr. President, I withdraw my objection.

The PRESIDENT pro tempore. Without objection, the order that the roll be called is vacated.

The question is on agreeing to the conference report. The yeas and nays have been ordered, and the Clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. BRIDGES (when his name was called). I have a general pair with the Senator from Utah [Mr. THOMAS], which I transfer to the Senator from Nebraska [Mr. BUTLER], who, if present, would vote "yea." I vote "yea."

Mr. REED (when his name was called). I have a general pair with the

senior Senator from New York [Mr. WAGNER]. On this vote I transfer that pair to the junior Senator from California [Mr. KNOWLAND], who, if present, would vote "yea." I vote "yea."

The roll call was concluded.

Mr. HAYDEN. I announce that the Senator from Alabama [Mr. BANKHEAD] is unavoidably detained. He asked that the announcement be made that, if present, he would vote "yea."

Mr. WHERRY. I announce that my colleague the distinguished senior Senator from Nebraska [Mr. BUTLER] is necessarily absent. If present, he would vote "yea."

Mr. BARKLEY. I announce that the Senator from North Carolina [Mr. BAILEY], the Senator from Virginia [Mr. GLASS] and the Senator from West Virginia [Mr. KILGORE] are absent because of illness.

The Senator from Alabama [Mr. HILL] is absent because of a death in his family.

The Senator from Ohio [Mr. HUFFMAN] is absent because of illness in his family.

The Senator from Florida [Mr. ANDREWS], the Senator from Virginia [Mr. BYRD], the Senator from Georgia [Mr. GEORGE], the Senator from Pennsylvania [Mr. GUFFEY], the Senator from Louisiana [Mr. OVERTON], the Senator from Utah [Mr. THOMAS], the Senator from Maryland [Mr. TYDINGS], the Senator from New York [Mr. WAGNER], the Senator from Massachusetts [Mr. WALSH], and the Senator from Montana [Mr. WHEELER] are necessarily absent.

The Senator from Missouri [Mr. BRIGGS], the Senator from Mississippi [Mr. EASTLAND], the Senator from Pennsylvania [Mr. MYERS], the Senator from Illinois [Mr. LUCAS], the Senator from South Carolina [Mr. MAYBANK], the Senator from New York [Mr. MEAD], the Senator from Florida [Mr. PEPPER], the Senator from Maryland [Mr. RADCLIFFE], and the Senator from Georgia [Mr. RUSSELL] are detained on public business.

The Senator from New Mexico [Mr. CHAVEZ] and the Senator from Nevada [Mr. MCCARRAN] are absent on official business.

I wish to announce that the Senator from Washington [Mr. MAGNUSON], the Senator from Utah [Mr. MURDOCK], the Senator from Montana [Mr. MURRAY], and the Senator from Oklahoma [Mr. THOMAS] are unavoidably detained.

I announce further that if present and voting, the Senator from Maryland [Mr. RADCLIFFE] would vote "yea."

Mr. WHERRY. The Senator from Delaware [Mr. BUCK], the Senator from Indiana [Mr. CAPEHART], the Senator from Massachusetts [Mr. SALTONSTALL], and the Senator from New Jersey [Mr. SMITH] are necessarily absent.

The Senator from Nebraska [Mr. BUTLER], the Senator from California [Mr. KNOWLAND], the Senator from Oregon [Mr. MORSE], and the Senator from Ohio [Mr. TAFT] are necessarily absent by leave of the Senate.

The Senator from Wyoming [Mr. ROBERTSON] is absent because of illness in his family.

The Senator from New Hampshire [Mr. TOBEY] is absent on official business.

The Senator from California [Mr. KNOWLAND] would vote "yea" if present.

The result was announced—yeas 47, nays 3, as follows:

YEAS—47

Austin	Gossett	Millikin
Ball	Green	Moore
Barkley	Gurney	O'Daniel
Bilbo	Hart	O'Mahoney
Bridges	Hatch	Reed
Brooks	Hayden	Revercomb
Capper	Hickenlooper	Shipstead
Carville	Hoey	Stewart
Connally	Johnson, Colo.	Tunnell
Cordon	Johnston, S. C.	Vandenberg
Donnell	La Follette	Wherry
Downey	Langer	White
Ellender	McClellan	Wiley
Ferguson	McFarland	Willis
Fulbright	McKellar	Young
Gerry	McMahon	

NAYS—3

Aiken	Mitchell	Taylor
-------	----------	--------

NOT VOTING—46

Andrews	Hill	Robertson
Bailey	Huffman	Russell
Bankhead	Kilgore	Saltonstall
Brewster	Knowland	Smith
Briggs	Lucas	Stanfill
Buck	McCarran	Taft
Bushfield	Magnuson	Thomas, Okla.
Butler	Maybank	Thomas, Utah
Byrd	Mead	Tobey
Capehart	Morse	Tydings
Chavez	Murdoch	Wagner
Eastland	Murray	Walsh
George	Myers	Wheeler
Glass	Overton	Wilson
Guffey	Pepper	
Hawkes	Radcliffe	

So the report was agreed to.

Mr. BARKLEY. Mr. President, I am not going to move a recess now. I want to express my appreciation to all Senators who have remained here today and worked. I think the Senate has done a good day's work today in disposing of the matters which have been disposed of—the conference report and the soldiers' vote bill—and I want to express my appreciation.

INCREASE IN PAY OF ENLISTED MEN OF THE ARMED FORCES

Mr. REVERCOMB. Mr. President, out of order I ask unanimous consent to introduce on behalf of the Senator from Iowa [Mr. WILSON] and myself a bill entitled "A bill to increase the rates of monthly base pay of enlisted men of the lower five pay grades of the Army, Navy, Marine Corps, and Coast Guard for the purpose of encouraging voluntary enlistments in the armed forces."

I may say, Mr. President, that it is only fair that I give first credit for the introduction of this bill to the able senior Senator from Iowa. I am presenting it because he is necessarily absent at this time.

Furthermore, I want to say that the bill would increase the rate of monthly base pay for men already in the service, as well as those who will enter the service hereafter.

There being no objection, the bill (S. 2038) to increase the rates of monthly base pay of enlisted men of the lower five pay grades of the Army, Navy, Marine Corps, and Coast Guard for the purpose of encouraging voluntary enlistments in the armed forces was received, read twice by its title, and referred to the Committee on Military Affairs.