

A resolution adopted at the convention of the International Association of Game, Fish, and Conservation Commissioners at Denver, Colo., relating to the protection of Canada geese and other migratory game birds in critical areas, including the Horseshoe Lake area in Illinois; to the Committee on Interstate and Foreign Commerce.

A resolution adopted at the convention of the International Association of Game, Fish, and Conservation Commissioners at Denver, Colo., favoring the enactment of legislation providing for a wildlife extension service; to the Committee on Public Lands.

A resolution adopted at the convention of the International Association of Game, Fish, and Conservation Commissioners at Denver, Colo., favoring the enactment of legislation providing adequate funds to continue the necessary field administration of the public domain lands included in grazing districts; to the Committee on Public Lands.

A resolution adopted at the convention of the International Association of Game, Fish, and Conservation Commissioners at Denver, Colo., protesting against the sale of Taylor grazing lands, National Forest Reserves, or any other public domain to any individuals for special interests; to the Committee on Public Lands.

A resolution adopted at the convention of the International Association of Game, Fish, and Conservation Commissioners at Denver, Colo., favoring the enactment of the so-called Wherry-Burke bills providing for the transfer of suitable surplus war lands to the States for wildlife purposes; to the Committee on Public Lands.

A resolution adopted at the convention of the International Association of Game, Fish, and Conservation Commissioners at Denver, Colo., protesting against the enactment of Senate bill 33, relating to the administration of the national forest grazing lands; to the Committee on Public Lands.

A resolution adopted at the convention of the International Association of Game, Fish, and Conservation Commissioners at Denver, Colo., relating to the use and development of the water resources of the several States; to the Committee on Public Works.

A resolution adopted at the convention of the International Association of Game, Fish, and Conservation Commissioners at Denver, Colo., relating to Federal water pollution control legislation; to the Committee on Public Works.

#### PERSONS EMPLOYED BY COMMITTEES WHO ARE NOT FULL-TIME SENATE OR COMMITTEE EMPLOYEES

The PRESIDENT pro tempore laid before the Senate reports for the months of June, July, and August 1947, from the chairman of a certain committee, in response to Senate Resolution 319 (78th Cong.), relative to persons employed by committees who are not full-time employees of the Senate or any committee thereof, which were ordered to lie on the table and to be printed in the Record, as follows:

#### SPECIAL COMMITTEE INVESTIGATING THE NATIONAL DEFENSE PROGRAM

SEPTEMBER 1947.

##### To the Senate:

The above-mentioned committee hereby submits the following report showing the name of a person employed by the committee who is not a full-time employee of the Senate or of the committee for the months of June, July, and August 1947, in compliance with the terms of Senate Resolution 319, agreed to August 23, 1944:

W. Harold Lane (beginning June 2), 1438 North Inglewood, Arlington, Va.; Bureau of Internal Revenue; annual salary, \$7,102.20.

OWEN BREWSTER,  
Chairman.

#### PEACE WITH JUSTICE—ADDRESS BY SENATOR VANDENBERG

[Mr. WHITE asked and obtained leave to have printed in the Record an address on the subject, Peace With Justice, delivered by Senator Mr. VANDENBERG, at the University of Michigan, November 3, 1947, which appears in the Appendix.]

#### CANDIDACY OF SAM H. JONES IN LOUISIANA—ADDRESS BY SENATOR OVERTON

[Mr. OVERTON asked and obtained leave to have printed in the Record an address by him on November 10, 1947, in behalf of Hon. Sam H. Jones, candidate for Governor of Louisiana, which appears in the Appendix.]

#### THE LAW AND GOVERNMENT—ADDRESS BY SENATOR WILEY

[Mr. WILEY asked and obtained leave to have printed in the Record an address entitled "The Law and Government," delivered by him before the annual meeting of the American Bar Association, Cleveland, Ohio, September 24, 1947, which appears in the Appendix.]

#### ORDER FOR ADJOURNMENT TO THURSDAY

Mr. WHITE. Mr. President, I move that when the Senate adjourns today the adjournment be until Thursday next at 12 o'clock noon.

The motion was agreed to.

#### LEAVE OF ABSENCE

Mr. WHERRY. Mr. President, I ask unanimous consent that the junior Senator from Nevada [Mr. MALONE] be excused from attendance upon the sessions of the Senate during this week, because he has been unavoidably detained en route from Europe.

The PRESIDENT pro tempore. Without objection, the order is made.

#### ORDER OF BUSINESS

Mr. WHITE. Mr. President, I move that the Senate stand in recess, subject to the call of the Chair.

(At this point, Mr. OVERTON asked and obtained leave to have certain matter printed in the Appendix of the Record.)

Mr. WHITE. Mr. President, I do not wish to object to the request of the Senator from Louisiana, but it is very much hoped that the Senate may dispense with morning business, the call of the calendar, and other matters of the sort, today, so that at the earliest possible moment it may be able to proceed with the consideration of the legislation so vigorously urged by the President, the emergency foreign-aid bill. It is hoped that that will reach the floor a little later this week, possibly today. I hope the Senate will not today become involved in the transaction of morning business, or in efforts to have a call of the calendar. I make that as a suggestion, without objecting to the request of the Senator from Louisiana.

Mr. OVERTON. I thank the Senator. (Mr. WHITE asked and obtained leave to have certain matter printed in the Appendix.)

The PRESIDENT pro tempore. It seems proper to the Chair, under the circumstances, that the Chair should invite any other insertions in the Record which may be desired.

Mr. BARKLEY. Mr. President, I wish to make an observation. I hope the in-

sertions which have just been authorized will not be regarded as establishing a precedent of the Senate with respect to the beginning of sessions of the Congress. The Parliamentarians of the two Houses have interpreted the mongrel resolution, under which the Congress was in recess, to mean that the present session is merely an extension of the last session, and therefore not the beginning of a new session in which we have to go through the ordinary routine. Heretofore when the Congress has convened in a new session it has been customary, as a matter of courtesy to the President of the United States, to take no action, even in regard to insertion of matters in the Record, until after the President has delivered his message. I hope that custom will not be violated, or that it will be interpreted that there has been a reversal of the former policy merely because during the session today, which is an extension of the last session, insertions in the Record have been permitted.

Mr. WHITE. Mr. President, I am in complete concurrence with what the Senator from Kentucky has said, and I renew my motion that the Senate now stand in recess subject to the call of the Chair.

The PRESIDENT pro tempore. The Chair would like to say to the Senator from Kentucky that it will be necessary to make one exception to his expressed wish, because the bill providing for foreign relief must be introduced today if the Senate Foreign Relations Committee is to begin consideration of it immediately.

Mr. BARKLEY. Mr. President, I was not objecting to any of the procedure today, on the theory that the present session is simply an extension of the last session. I was hoping, however, that the procedure would not be taken as a precedent to govern us in the future when there is either a regular or an extraordinary session under the ordinary constitutional procedure.

#### THE NATURE OF THE PRESENT SESSION OF CONGRESS

Mr. WILEY. Mr. President, will the Senator from Maine yield to me?

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

Mr. WHITE. May I ask for what purpose the Senator from Wisconsin desires to have me yield to him?

Mr. WILEY. In the first instance, I may say I want to follow the precedent which has just been set. I desire to comment for a minute on the question whether or not this is a special session of Congress or whether we are now in continuance of the regular session. I have had the subject briefed for me, and what I shall say will take only a minute.

Mr. WHITE. Mr. President, I think the practice referred to by the Senator from Kentucky is so salutary that he ought not to depart from it. I yield in this instance, but I shall object to all further transgressions upon the practice.

Mr. WILEY. Mr. President, the convening of Congress today raises a number of somewhat technical questions as to

whether or not this is a special or an extra session, and as to whether or not the first session of the Eightieth Congress has been terminated, or whether as we convene today we simply resume the first session of the Eightieth Congress. For a number of reasons it is desirable that the status of the present session be clearly defined.

As chairman of the Senate Judiciary Committee, I have been concerned with one aspect of this problem. On January 3, 1947, at the beginning of the first regular session of the Eightieth Congress, the Attorney General reported to the Congress certain amendments of the Federal Rules of Civil Procedure as adopted by the Supreme Court in its order of December 27, 1946, pursuant to the act of June 19, 1934 (48 Stat. 1064, 28 U. S. C., sec. 723 (c)). Rule 86 (b), as amended, provides for the effective date of the amendments, and reads, in part, as follows:

The amendments adopted by the Supreme Court on December 27, 1946, and transmitted to the Attorney General on January 2, 1947, shall take effect on the day which is 3 months subsequent to the adjournment of the first regular session of the Eightieth Congress, but if that day is prior to September 1, 1947, then these amendments shall take effect on September 1, 1947.

It is not my purpose to present a detailed legal discussion on this question, but I do wish to insert into the Record a comprehensive and rather detailed brief which the Federal Law Section of the Library of Congress prepared at my request, in which the conclusion is expressed that we are simply resuming the first regular session of the Eightieth Congress, and that this view causes no legislative difficulties and is the one most consonant with the Constitution, the law, and the precedents.

Accordingly I ask unanimous consent to have inserted in the Record at this point as a part of my remarks the memorandum which the Federal Law Section has prepared for me with reference to the effective date of amendments of the Federal Rules of Civil Procedure, in which memorandum the status of the present session is defined.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

MEMORANDUM  
THE LIBRARY OF CONGRESS,  
November 5, 1947.

To: Senate Committee on the Judiciary.  
From: Federal Law Section.  
With reference to: Effective date of amendments of Federal Rules of Civil Procedure.

On January 3, 1947, the Attorney General reported to Congress at the beginning of the first regular session of the Eightieth Congress certain amendments of the Federal Rules of Civil Procedure as adopted by the Supreme Court in its order of December 27, 1946, pursuant to the act of June 19, 1934 (48 Stat. 1064, 28 U. S. C., sec. 723c). Rule 86 (b), as amended, provides for the effective date of the amendments and reads in part as follows:

"The amendments adopted by the Supreme Court on December 27, 1946, and transmitted to the Attorney General on January 2, 1947, shall take effect on the day which is 3 months subsequent to the adjournment of the first regular session of the Eightieth Congress; but

if that day is prior to September 1, 1947, then these amendments shall take effect on September 1, 1947."

This is in accord with the terms of section 2 of the act of June 19, 1934, above referred to, which provides that the rules "shall not take effect until they shall have been reported to Congress by the Attorney General at the beginning of a regular session thereof and until after the close of such session."

The Senate and House of Representatives, sitting in the first regular session of the Eightieth Congress, adjourned pursuant to Senate Concurrent Resolution 33, as amended, on July 27, 1947, to January 2, 1948, or to an earlier date on notification by the President pro tempore of the Senate, the Speaker of the House, and the majority leaders of the Senate and House, all acting jointly. The terms of the resolution make it evident that the adjournment on July 27 was more in the nature of a recess and was not a final adjournment of the first regular session. This is borne out by the fact that Senate Joint Resolution 158, as enacted, fixes the date of the meeting of the second regular session as January 6, 1948. Further confirmation is found in the statement of the majority leader of the House, Mr. HAL-LECK, that the order of business on January 2, 1948, "will be a motion to adjourn sine die" (CONGRESSIONAL RECORD, July 28, 1947, p. 10521). Accordingly, the conclusion must be that the adjournment on July 27 was not the kind of final adjournment, ending the first regular session, as was contemplated by amended rule 86 (b). It is settled that when the two Houses adjourn for more than 3 days, and not to or beyond the day fixed by the Constitution or by law for the next regular session to begin, the present session is not thereby necessarily terminated (Fifth Hinds' Precedents of the House of Representatives (1907), secs. 6876, 6877). An adjournment other than sine die amounts only to a recess or dispersion of Congress for a certain period (1892) 20 Op. Atty. Gen. 503). Hence, the amendments to the rules did not become effective on September 1, 1947, and will not become effective until 3 months after an adjournment sine die of the first regular session. This opinion is shared by the Director of the Administrative Office of the United States Courts, Mr. Chandler, as stated in his annual report of September 1947, and, unofficially, by Circuit Judge Charles E. Clark, the reporter for the Supreme Court's Advisory Committee on Rules of Civil Procedure. To the same effect, see Release No. 31, August 4, 1947, Tenth Federal Rules Service.

By proclamation of October 23, 1947, the President has declared that an "extraordinary occasion" requires that Congress convene on November 17, 1947, at 12 o'clock noon, of which proclamation "all persons who shall at that time be entitled to act as members thereof are hereby required to take notice" (12 Fed. Reg. 6941). This meeting of Congress, therefore, has been called by the President in the exercise of his powers and not by Congress itself pursuant to the terms of Senate Resolution 33. The question then arises as to the character of this session, for the answer to that question also indicates the time from which the three months prescribed in amended rule 86 (b) will begin to run. Three views are possible: (1) that the convening of Congress by the President begins a special session which in itself terminates the first regular session; (2) that the session commencing November 17 will be a special session during a recess of the first regular session but without terminating the first session; and (3) that the session beginning November 17 is only a resumption of the first regular session.

The first view above seems to be supported by Jefferson's Manual. Jefferson stated (House Rules and Manual, 80th Cong., p. 285):

"Congress separate in two ways only, to wit, by adjournment, or dissolution by the end of their time. What, then, constitutes a session with them? A dissolution certainly closes one session, and the meeting of the new Congress begins another. The Constitution authorizes the President 'on extraordinary occasions to convene both Houses or, either of them.' (I. 3.) If convened by the President's proclamation, this must begin a new session, and of course determine the preceding one to have been a session."

Under this view the convening of Congress on November 17 would commence a special or extra session and at the same time would terminate the first session, presumably, as of 12 o'clock noon of that day. Accordingly the three months specified in Rule 86 (b) as amended would begin to run from that time.

The difficulty with this position, however, is that it reads into the President's constitutional power more than is stated therein and gives him the added power to terminate or dissolve a regular session of Congress. Article II, section 3, merely states that the President "may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper." The only power conferred is one to convene Congress and the power to adjourn is expressly limited. It may be doubted, therefore, whether there is any constitutional warrant for the view that by convening Congress upon an extraordinary occasion the President may thereby terminate a regular session of Congress.

The second possibility is that the session commencing November 17 is a special or extra session which will take place during the recess of the first regular session but will not terminate it. Under this view the special session would have no effect with regard to the effectiveness of the rules if it were adjourned some time prior to January 2, 1948. Upon the advent of January 2, 1948 (the date fixed by resolution for the resumption of the first regular session) it would seem that the special session would then automatically terminate, unless Congress rescinded its previous resolution. (See and compare 2 Hinds' op. cit. supra, sec. 1160; 5 Hinds' op. cit. supra, secs. 6687, 6690, 6691, 6692.)

Hence, in either case, the 3 months prescribed in rule 86 (b) as amended would begin to run from January 2, 1948. Assuming for the moment, however, that Congress in special session could rescind its prior resolution relating to January 2, 1948, then upon such rescission the special session could continue until January 6, 1948, the time fixed by law for the beginning of the second regular session, and would then automatically terminate. Ibid. But in this case the exact date for the adjournment sine die of the first session would have to be fixed by Congress or else it could not be definitely determined.

The possibilities here advanced, however, are quite objectionable in that they invoke a strained interpretation of the situation, and are based on a technical construction which promotes the theory of a session within a session. Aside from the fact that this is difficult to conceive, except in the abstract, it would raise numerous problems of the legislative process which would cause great difficulty. Such an interpretation should be avoided if at all possible. Moreover, the Senate Judiciary Committee has taken the position that there can be no constructive recess of a regular session during which the Congress is assembled in an extra session—that instead, a recess is one where in actuality the Congress is not assembled at all. "An extraordinary session and a regular session cannot coexist." 5 Hinds' op. cit. supra, sec. 6687.

The third possible view is that when Congress convenes on November 17, it will there-

upon simply resume the first regular session of the Eightieth Congress. This view causes no legislative difficulties and is the one most consonant with the Constitution, the law, and the precedents. The President's constitutional power is one to convene Congress. The character of the session is not described in the Constitution, but the condition for the exercise of the power is described, i. e., "extraordinary occasions." The matter is left to the discretion of the President, to be acted upon as he sees fit at any time. (2 Watson on the Constitution (1910) 1001-1002.) If Congress is not in session, then an assembly pursuant to Presidential directive is in truth an extra or special session. Thus the President's proclamation of September 13, 1939, expressly convened the Congress "in extra session." (4 Fed. Reg. 3899.) But in the present situation, as already noted, Congress is simply in recess and a session of Congress is pending. Had Congress recessed on July 27 without making any express provision for its recall, it would still have been subject to the Presidential order to reassemble. The situation is not changed by Senate Concurrent Resolution 33, which only insured that Congress would retain the power to reassemble itself if it so desired. The President's constitutional power must necessarily be read into this resolution and becomes a part of it, even though not specifically mentioned therein. It was not essential for the resolution to include any reference to the Presidential power, since that was given him by the Constitution. Accordingly, the Presidential proclamation of October 23, 1947, is nothing more than a command to convene and when Congress convenes on November 17 it will be sitting in a continuation of the first regular session, which has never been legally terminated. This is borne out by the fact that the President's proclamation does not refer to a special or extra session, but simply states that "an extraordinary occasion requires the Congress of the United States to convene at the Capitol . . ." (12 Fed. Reg. 6941.) Therefore, since Congress will be reassembled at a date earlier than January 2, 1948 (the date set for final adjournment if nothing transpired) it would seem that that date has no further significance and the end of the first regular session will come whenever Congress adjourns sine die at some time prior to January 6, 1948. Accordingly, the 3 months prescribed in rule 86 (b) will begin to run from the time when such adjournment sine die is effected.

#### RECESS

Mr. WHITE. Mr. President, I now renew my motion that the Senate stand in recess subject to the call of the Chair.

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

Mr. WHITE. I decline to yield.

The PRESIDENT pro tempore. The question is on the motion of the Senator from Maine that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to; and (at 12 o'clock and 25 minutes p. m.) the Senate took a recess subject to the call of the Chair, and was called to order by the President pro tempore at 1 o'clock and 5 minutes p. m.

#### MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that a committee of three Members had been appointed by the Speaker, on the part of the House of Representatives, to join with the committee on the part of the Senate to notify the President of the United States that a quorum of each

House had assembled and that Congress was ready to receive any communication that he might be pleased to make.

The message also announced that the House had agreed to a concurrent resolution (H. Con. Res. 118) providing for a joint session of the two Houses of Congress on Monday, November 17, 1947, at 1:30 o'clock in the afternoon, for the purpose of receiving such communication as the President of the United States shall be pleased to make, in which it requested the concurrence of the Senate.

#### NOTIFICATION TO THE PRESIDENT

Mr. WHITE and Mr. BARKLEY appeared, and Mr. WHITE said: Mr. President, the joint committee has notified the President that the two Houses are in session, and the President authorizes the committee to say to the Congress that he sends his respects and good wishes, and that he accepts the invitation to address a joint session of the two Houses of Congress at 1:30 o'clock p. m. today.

#### CALL OF THE ROLL

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

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

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

Aiken	Hatch	O'Daniel
Baldwin	Hawkes	O'Mahoney
Ball	Hayden	Overton
Barkley	Hickenlooper	Pepper
Bricker	Hill	Reed
Brooks	Hoy	Rsvvercomb
Buck	Holland	Robertson, Va.
Bushfield	Ives	Robertson, Wyo.
Butler	Jenner	Russell
Byrd	Johnson, Colo.	Saltonstall
Cain	Johnston, S. C.	Smith
Capohart	Kern	Sparkman
Capper	Kilgore	Stennis
Chaves	Knowland	Taft
Connally	Lodge	Taylor
Cooper	Lucas	Thomas, Okla.
Cordon	McCarthy	Thomas, Utah
Donnell	McClellan	Thye
Dwornak	McGrath	Tydings
Eastland	McKellar	Umstead
Eaton	McMahon	Vandenberg
Ellender	Martin	Watkins
Ferguson	Maybank	Wherry
Flanders	Millikin	White
Fulbright	Moore	Wiley
George	Morse	Williams
Green	Myers	Wilson
Gurney	O'Connor	Young

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

#### BILL INTRODUCED

Mr. CONNALLY. Mr. President, I ask unanimous consent to introduce, for the senior Senator from Michigan (Mr. VANDENBERG) and myself, a bill to implement the relief program, which we ask to have referred to the Committee on Foreign Relations as a basis for the work of the committee.

The PRESIDENT pro tempore. Without objection, the order is made.

Mr. CONNALLY (for himself and Mr. VANDENBERG), by request, introduced a bill (S. 1757) to promote the general welfare, national interest, and foreign policy of the United States by providing supplies to certain European countries on an emergency basis, which was read twice by its title and referred to the Committee on Foreign Relations.

#### JOINT SESSION OF THE TWO HOUSES

The PRESIDENT pro tempore laid before the Senate a concurrent resolution (H. Con. Res. 118), which was read, as follows:

*Resolved by the House of Representatives (the Senate concurring).* That the two Houses of Congress assemble in the Hall of the House of Representatives on Monday, November 17, 1947, at 1:30 o'clock in the afternoon, for the purpose of receiving such communications as the President of the United States shall be pleased to make to them.

Mr. WHITE. Mr. President, I move the adoption of the concurrent resolution. The motion was agreed to.

Mr. WHITE. Mr. President, I think the hour has arrived when we should normally and properly proceed to the Hall of the House of Representatives. Before that is done, I desire to make a motion. I do so because I see no necessity for having the Senate return to this Chamber after the conclusion of the joint session. Therefore, I move that the Senate now proceed to the House of Representatives for attendance upon the joint session, and that at the conclusion of the joint session the Senate stand in adjournment as previously ordered.

The motion was agreed to.

The PRESIDENT pro tempore. The Chair will repeat the essence of the order to the Senate, for its information. The Senate will now proceed to the Hall of the House of Representatives, and will stand in adjournment following the joint session. The next meeting of the Senate will be on Thursday, at 12 o'clock noon.

So, following the joint session, the Senate will stand in adjournment until Thursday.

Thereupon (at 1 o'clock and 17 minutes p. m.), the Senate, preceded by the Secretary (Carl A. Loeffler) and the Sergeant at Arms (Edward F. McGinnis), and headed by the President pro tempore, proceeded to the Hall of the House of Representatives for the purpose of attending the joint session of the Senate and the House of Representatives to receive communications from the President of the United States.

(The proceedings in the House of Representatives and the message delivered by the President of the United States at the joint session of the two Houses of Congress appear beginning on p. 10594 of the House proceedings in the CONGRESSIONAL RECORD.)

#### ADJOURNMENT

The joint session of the two Houses having been concluded, the Senate, at 2 o'clock and 4 minutes p. m., under the order previously entered, and as a further mark of respect to the memory of the late Senator Bilbo, of Mississippi, stood in adjournment until Thursday, November 20, 1947, at 12 o'clock meridian.

## HOUSE OF REPRESENTATIVES

MONDAY, NOVEMBER 17, 1947

The House met at 12 o'clock noon, and was called to order by the Speaker, Hon. JOSEPH W. MARTIN, JR.

The SPEAKER. The Clerk will read the proclamation of the President of the