Pursuant to the permission of the House, I append hereto Mr. Carnal's statement:

DAIRY FARMERS' UNION,
*Ogdensburg, N. Y.*

STATEMENT IN SUPPORT OF THE DEBT-ADJUSTMENT BILL—FARM CREDIT ACT OF 1940, S. 3509

It is obvious that agriculture in New York and New England stands to benefit decidedly from the debt-adjustment bill. Unlike farmers in other sections, those in the East have not been vocal nor pressing in their demands, nor have they always utilized Government agencies to the full extent, frequently to their own detriment. But in the debt-adjustment bill, which so ably complements the more humane policies of the revamped Farm Credit Administration, they see very real and welcome assistance.

For one thing, the debt-adjustment bill opens the way for reducing the number of farm-mortgage foreclosures. It goes a step further in helping to restore to the land farmers who have already lost their farms through foreclosures. To return these farmers to the land is the best possible solution from the standpoint of human welfare, efficiency, and the national economy. But at present, a farmer once foreclosed, is not eligible for another farm loan.

That provision of the debt-adjustment bill which eliminates the purchase of land-bank stock as a prerequisite to obtaining a loan will be especially commended by eastern farmers. This especially onerous provision has long been regarded as a legalized racket, an unfair toll levied upon those who can least afford it. A pun on the words "stock" and "stuck" has already gone the rounds of the milkshed in this connection.

The stock-purchase plan is so unpopular, not only because of the added burden it imposes, but because it is an obvious injustice to make one farmer jointly liable for the loan of another. A farmer who is a borrower is not impressed with a neatly engraved stock certificate. His major interest is in getting a loan and getting it paid off most expeditiously, and anything which interferes with this is bound to be vexatious, especially when it appears to be unnecessary and unjust.

Those who defend the stock-purchase plan in the New York milkshed claim that it imparts an element of "cooperation" to the system. They are the "professional cooperators" of the Grange, the Farm Bureau, and kindred organizations who are largely responsible for the indifference or hostility of eastern farmers toward the cooperative movement. In fact, agricultural cooperation in these areas has not received the support to which it is entitled largely because of the numerous infringements which have been perpetuated upon the cooperative movement.

From the economic and human standpoint, the debt-adjustment bill is a desirable piece of legislation, and as such it is recognized by farmers of the East, especially by those who are already indebted to Federal Farm Credit.

As representatives of 21,000 dairy farmers in the States of New York, Vermont, and Pennsylvania we give our unqualified support to, and urge the passage of this bill.

HARRY A. CARNAL, *Secretary.*

## Dies Committee Against Courts

### EXTENSION OF REMARKS
OF
### HON. VITO MARCANTONIO
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
*Monday, May 6, 1940*

DECISION AND OPINION BY HON. GEORGE A. WELSH, JUDGE, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Mr. MARCANTONIO. Mr. Speaker, under leave to extend my remarks, I include herein the decision and opinion of the Hon. George A. Welsh, judge, United States District Court for the Eastern District of Pennsylvania, with regard to the illegal activities of the Dies committee:

[In the District Court of the United States for the Eastern District of Pennsylvania. *Carl Reeve* v. *Chester Howe, George F. Hurley, Albert A. Granitz, Jacob Dogole,* civil action No. 840; and *Frank Hellman, individually and as district organizer of the International Workers Order and the International Workers Order, Philadelphia District Committee,* v. *Chester Howe, George F. Hurley, Albert A. Granitz, and Jacob Dogole,* civil action No. 841. May 3, 1940.]

SUB MOTIONS TO DISMISS

Welsh, J.:

"* * * The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized * * *."

ARTICLE IV. CONSTITUTION OF THE UNITED STATES

The only question before us for decision is whether or not the above constitutional safeguards and guaranties have been violated. Partisanship and political philosophies have no place or bearing in the discussion. Those matters can very well be left to their proper avenues of expression and control.

The questions thus having been placed squarely before a Federal court for decision requires a full, accurate, and complete statement of the facts and the law involved. The court cannot be otherwise than exceedingly mindful of the fundamental principles of the case thus submitted to it for its decision. The comments of men high in public life, the discussion of the subject in the public press and magazines, and the hundreds of letters on the subject coming to the chambers of the court indicate the tremendous feeling that the case has aroused, the state of the public mind due to existing world conditions, and the confused thought as to what the real underlying principles of the case are. We could scarcely discharge our duty in the circumstances without taking due notice of all these factors, and without exercising a wider latitude in our treatment of the problem than in the usual or ordinary case. Hence, we consider it advisable to state as clearly as possible the actual fundamental facts as we believe them to be. Also, the principles of law that govern and which we believe have governed from the time our country was founded, its Constitution adopted, and as this Constitution has been defined and interpreted by the Supreme Court of the United States for over 150 years.

The courts are concerned only with maintaining the sanctity of the safeguards of the Constitution of the United States. We feel that we should call attention to the exceedingly grave consequences of breaking down the applicable provisions of the Bill of Rights. It just so happens that the aggrieved parties in this case are apparently very much in the minority in our country. But their rights which they claim were invaded are rights that are sacred to all of us. All of our people have the right to form themselves into political parties and to have the free and untrammeled right to the press to promulgate their ideas. The collateral evidence shows that the offices of the political party and the newspaper known as the American Free Press were both raided and much property confiscated and taken away.

The Supreme Court of the United States in the case of *Thornhill* v. *State of Alabama,* decided April 22, 1940, called the attention of our people to the fact that the Continental Congress itself, as long ago as October 26, 1774, recognized the utmost importance of this fundamental doctrine in these words:

"The last words we shall mention regards the freedom of the press. The importance of this consists, besides the advancement of truth, science, morality, and arts in general, in its diffusion of liberal sentiments on the administration of government, its ready communication of thoughts between subjects."

On April 2, 1940, the defendant George F. Hurley, a special investigator for a United States congressional committee known as the Dies committee, made affidavit before Jacob Dogole, a magistrate of the city and county of Philadelphia, that, upon information and belief, matter of a seditious nature, banned by the Pennsylvania Act No. 275 of June 26, 1919, as amended by the act of May 10, 1921, No. 211, was to be found at the headquarters of the Communist Party at No. 250 South Broad Street, Philadelphia, and at the headquarters of the International Workers' Order, 810 Locust Street, Philadelphia, and praying, under the authority of said act of assembly, for the issuance of warrants authorizing the search and seizure of said seditious matter.

The search-and-seizure warrants were issued by Magistrate Dogole, and though by him directed for execution to "any police officer of the city and county of Philadelphia," were, nevertheless, delivered by the magistrate to the defendant Hurley. Pursuant thereto, the defendants Hurley and Howe, accompanied by Lieutenant Granitz and a squad of some 30 Philadelphia police officers, proceeded to the said headquarters of the Communist Party aforesaid at 250 South Broad Street, Philadelphia, and to the headquarters of the International Workers' Order at 810 Locust Street, Philadelphia, and searched and seized and carried away various property which, however, has since been returned and is now in the custody of the polic authorities of the city of Philadelphia.

It transpired that the headquarters of the Communist Party at 250 South Broad Street were in the apparent occupancy or charge of one Carl Reeve, educational director of the Communist Party in Philadelphia.

On April 3, 1940, the said Carl Reeve, in his representative capacity as educational director of the Communist Party, filed in this court his complaint, as above captioned, praying for an order (a) quashing the search-and-seizure warrant issued by Magistrate Dogole; (b) enjoining and restraining the above-named defendants, and each of them, from using, copying, or otherwise interfering with the seized property, or making public any of its contents, and (c) directing the return of the seized property. (The prayer for an order restraining the use or publication of the seized property, was subsequently formally withdrawn before us by counsel for Carl Reeve, complainant.)

On April 12, 1940, motions to dismiss the complaint for want of jurisdiction in this court, and for failure to state a claim entitling the complainant to the relief prayed for, were filed by counsel for the defendant Albert A. Granitz, and by counsel for Jacob Dogole.

Briefs for and against the motions to dismiss have since been submitted, and are now before us. As the warrants for the search and seizure both at 250 South Broad Street and at 810 Locust Street, were identical in content, what we shall say of the one directed at 250 South Broad Street, may be regarded as equally applicable to the other addressed to 810 Locust Street.

Upon the question of our jurisdiction, we note, first, that although the warrant was issued by a magistrate of the city of Philadelphia, nevertheless the application for the warrant was solicited from the magistrate alike by defendants Hurley and Howe (admittedly the agents of the Dies committee, which is admittedly a Federal investigating committee), and that the application was actually signed and sworn to by Hurley.

We note further that although the warrant was directed for execution to "any police officer of the city and county of Philadelphia," nevertheless it was delivered by the magistrate to Hurley, who, with Howe and Lieutenant Granitz and a squad of 30 city police, proceeded to 250 South Broad Street and executed the warrant at that place.

We note further that though under the terms of the warrant, return of the warrant and of the seized property was to be made to the magistrate forthwith, or at any rate no later than within 10 days, nevertheless Hurley and Howe took immediate possession of the seized property, and transported it to Washington, and there delivered it to the Dies committee, who, having first made such use of the seized property as it saw fit to make, returned it into the custody of Magistrate Dogele.

Under the narrated facts, we are of the opinion that the search and seizure was in reality a Federal undertaking, taken under the chance that possibly something would be disclosed of official Federal interest. The fact that the undertaking was the joint undertaking of the local and Federal officers is material. The effect is the same as though the Federal agents had engaged in the undertaking as one exclusively their own. (*Byars* v. *United States,* 273 U. S. 28, 32.)

"Where a search has been participated in or instigated by Federal officers, under such circumstances as to stamp it as a joint enterprize * * * the validity of the search and seizure must be tested by the Federal law." (Cornelius on Search and Seizure, sec. 17, p. 62.)

Was the search and seizure invalid? That is to say, was the supporting warrant itself supported by sworn facts competent to be submitted to a jury, as reasonably affording probable cause for believing that seditious or subversive matter was to be found at the headquarters of the Communist Party at 250 South Broad Street? This is the standard by which the validity of the search and seizure is to be tested (*Grau* v. *United States,* 287 U. S. 124–128).

Tested by this standard, we note, first, that the affidavit of defendant Hurley, upon which the warrant issued, sets forth only Hurley's belief "upon information received," that certain persons, among them Carl Reeve, were in possession of and were concealing seditious records and literature, in violation of the Pennsylvania act of assembly, upon the premises 250 South Broad Street. Nothing more. Neverthless Magistrate Dogele issued the warrant which, as we have said, though directed to "any police officer of the city and county of Philadelphia," the magistrate delivered over to Mr. Hurley. Magistrate Dogele admits he made no inquiry at all as to the source of Mr. Hurley's information. Lieutenant Granitz was not present at the time of the delivery, and the magistrate testified that he did not know how Lieutenant Granitz got possession of the warrant, if indeed he got possession of it at all. It is, however, admitted that Hurley and Howe, accompanied by Lieutenant Granitz and a squad of police, approximately 30 in number, proceeded to 250 South Broad Street, and ransacked and cleaned out practically the entire contents of the headquarters of the Communist Party, not even omitting matters relating to housing construction, the personal property of Reeve, the complainant here, who is a member of the advisory committee of the Philadelphia Housing Authority under appointment of the president of that authority, the Honorable Frank Smith, nor omitting even the Communist Party's nomination papers for election to the State legislature—nomination papers the last day for filing which at Harrisburg was the next day following their seizure and transportation to Washington, with the result that unless some other means might be found it would be too late to do so—nor omitting even a letter file containing the names and addresses of furniture dealers, the property of one Esther Segal who, it is our understanding, was not an employee of the Communist Party.

We are not, however, greatly concerned with the actual property seized and transported to Washington. Whether it was seditious or not seditious has no bearing on the legality of the search and seizure. An unlawful search and seizure would not be made lawful no matter what evidence of an incriminating nature was found among the archives. The authenticity and genesis of any alleged seditious literature may now be difficult to legally prove in view of the circumstances surrounding their seizure and transport, and handling by so many persons involved. However, should this matter be material and relevant it may be legally inquired into later. We go to the affidavit of Mr. Hurley upon which the warrant issued, and find (as we have said) that it stated only that the affiant "upon information received" believed that "books, records, writings, publications, printing, cartoons, or utterances, documents, or writings," of a seditious or subversive nature were on the premises to be searched. Such an affidavit was plainly inadequate. The belief that the statements in an affidavit to a warrant are true, is insufficient, *Byars* v. *United States* (273 U. S. 28). The fourth amendment of the United States Constitution, provides that:

"* * * and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

It was also inadequate as tested by the act of Congress of June 15, 1917 (ch. 30, title 18, U. S. C. A., sec. 613), which provides that:

"A search warrant cannot be issued but upon probable cause supported by affidavit naming or describing the person, and particularly describing the property and the place to be searched."

The affidavit being defective, it is unnecessary to consider the alleged defect in the warrant, for if the affidavit was defective the warrant itself was without lawful foundation (*Grau* v. *United States,* 287 U. S. 124, 127). Being so, it is unnecessary to consider whether the warrant was good under the State law, since in no event could such warrant constitute the basis for the search and seizure here, which was so palpably a Federal search and seizure (*Byars* v. *United States,* 273 U. S. 28, 29). It thus appears that the search and seizure was made without probable cause and without any personal knowledge of the searching officers. As has been said by a high authority, no good reason exists why the right to be free from unreasonable search and seizure should not stand upon a parity today with freedom of religion, of speech, of the press, and of assembly, as guaranteed by the Bill of Rights, inasmuch as all of these rights are of equal importance to the individual (*Hague* v. *Committee, etc.,* 101 Fed. (2d) 774, 787, C. C. A. 3, per Biggs, C. J.). Protected from abridgment by the Federal Government by the first and fourth amendment, they are protected from abridgment by the States by the fourteenth amendment (id. p. 788, citing *Colgate* v. *Harvey,* 296 U. S. 404, 428). The suit in question was brought by the complainant to secure the protection and enforcement of civil rights guaranteed to him by our fundamental laws. The district court has jurisdiction of the suit under section 24 of the Judicial Code (28 U. S. C. A. sec. 41 (14)).

Defendant claims that the complainant has no redress because he was acting as the officer of a corporation, and that a corporation is not within the protection of the Constitution. In the early days of our national life, when business was largely individual in character or conducted by small groups of associates, the artificial entity of the corporation was looked upon as being outside the guaranties of the Constitution. But as we progressed to great corporate activities this view changed, and many years ago the Supreme Court of the United States declared that corporations were persons within the meaning of certain provisions of the Constitution. This interpretation was but a recognition by the highest tribunal of the fact that man's rights, possessed as an individual, were not lost by reason of his associating himself with others in a corporate activity. It requires only casual reflection to appreciate how important this interpretation has been to our national life. Men have been encouraged to combine their fortunes, their brains, and their energies, knowing full well that they forfeited no rights possessed by them in their individual capacity. Corporations have been declared persons within the meaning of the Constitution in certain respects. The mere fact that Mr. Reeve, the complainant, happened to be a member of an unincorporated society, and its duly accredited officer in the lawful possession, custody, and control of its property and paraphernalia, does not remove him from the protecting fold of the Constitution. If he became the victim of a raid or of process prohibited by the Constitution, relief should be given by a Federal court.

Counsel for defendants further allege that the complainant, as an individual, has no legal personal title to the papers and records seized due to the fact that he was also the officer of the corporation. Is this claim warranted within the real meaning of the applicable constitutional provision? Are the effects merely physical objects or do they include something more intangible and possibly far more real and substantial? Is the individual secure in his person, if he is deprived of or denied the right to function according to the rational activities of the office or station which he lawfully occupies? Man's life and his very being consists in his activities; he functions as man in the realm of thought; in this he differs from the brute creation. Surely a civilization as wonderful as ours cannot limit or circumscribe the constitutional guaranties of personal security within the limits claimed by the defendants. Furthermore, dispassionate reasoning must concede that the duly constituted corporate officer, having books, papers, records, money, and other property committed to his care, for the proper use of which, within the scope of corporate powers, he is personally responsible, has a right therein and thereto. We therefore cannot accept the claim of the defendants that they are free from the constitutional command not to violate those rights. Let the seal of judicial approval be placed upon such constitutional violations and liberty of the person, and liberty of religious and political thought and action will have vanished from our land.

Humanity can be no freer than its liberty to think. The search for good and the search for truth must be free for the mind of man to explore in all realms, spiritual and physical, each man according to his light. Man's relation to his God, to his fellow man, and to the State must ever be the subject of search and investigation. This is the liberty that the Constitution of the United States guarantees to its people. Any limitations of that liberty must be placed by the sovereign will of the people, lawfully expressed and self-imposed, and not by the fiat of any branch of the Government, whether it be executive, legislative, or judicial.

Eternal vigilance is the price of liberty. Our Government, through its proper agencies, has the power, the responsibility, and the duty of exercising such vigilance. When such vigilance is exercised within the limitations of the constitutional safeguards, all of our people will be found in sympathy.

The motions to dismiss the complaint in the above-entitled proceedings are denied.

## Proposed Amendment of the Wage-Hour Law

### EXTENSION OF REMARKS

OF

### HON. EARL C. MICHENER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, May 3, 1940*

Mr. MICHENER. Mr. Speaker, the House has just voted to recommit the legislation amending the wage-hour law. The effect of this vote is to send the Norton bill (H. R. 5435), the Ramspeck bill (H. R. 7349), and the Barden bill (H. R. 7133) back to the Committee on Labor. This means that there will be no action on the part of the House looking toward perfecting the wage-and-hour law at this session of Congress.

By voting to recommit this bill, the House has nullified everything done during the last 7 long days. Now that it is all over, it is will to take an inventory and see just where we started and where we finished.

At the beginning of the debate on the rule making these three bills in order, I called attention to the objections inherent in a rule of this kind. The prophecy made then has surely come true. If this 7 days' wasted time has not done anything else, it should at least convince the House of the fallacy of a rule of this type.

The debate has shown clearly the genesis of these three bills.

The Labor Committee report on the Norton bill, among other things, says:

Section 4 (d) of the Fair Labor Standards Act of 1938 requires that the Administrator submit annually in January a report to Congress covering his activities for the preceding year and including such recommendations for further legislation in connection with minimum wage and maximum-hour legislation as, in his opinion, are desirable. Acting in accordance with this requirement the Administrator did, in January of this year, submit his report to Congress together with suggestions for amendments to the act which, in his opinion, were necessary to relieve hardships found to exist and to make the administration of the act more effective. These suggestions were incorporated in the bill (H. R. 5435) introduced by the chairman of the committee and have been fully considered by the committee. All of them are carried in the committee amendment but not all in the form recommended by the Administrator. A number of other matters, not contained in the recommendations of the Administrator, were brought to the attention of the committee, and it was the committee's considered judgment that these matters also should be dealt with in any amendments to the act.

It will therefore be observed that the Norton bill not only had the support of the Committtee on Labor, but was in response to the request of the Administrator of the wage-hour law for legislation in order that some of the hardships and inequalities under the existing law might be removed. The Norton bill to which the report refers is the bill as introduced, and that part of the bill reported through which the lines were drawn by the printer and which the House has just recommitted. The Norton bill was introduced March 29, 1939.

The Barden bill was introduced July 11, 1939, and represented the views of organized agriculture as to amendments that were necessary in order that certain branches of agriculture might not be destroyed.

The National Grange, with its over 800,000 paid membership, advised each Member of Congress in reference to the Barden bill as follows:

We regard it as urgently necessary that Congress should pass the Barden bill, H. R. 7173, to amend the Fair Labor Standards Act of 1938, commonly known as the Wages and Hours Act.

Under the act, those who are engaged in agricultural pursuits, together with those employed in handling or processing agricultural commodities in the area of production are exempted. However, this exemption has been largely nullified by the wholly illogical and unwarranted interpretation or ruling made by the former administrator of the act, Mr. Andrews. While his successor has been in office for about 6 months, this ruling still stands.

The purpose of the Barden bill is to amend and clarify the original act so as to give agriculture and the processors of farm commodities in the area of production the exemptions to which they are justly entitled.

Under the Agricultural Adjustment Act it is the declared purpose of Congress to give agriculture price parity with the other groups in our national life. But during the past 2 years the exchange value of farm commodities as compared with commodities that farmers must buy has stood at only about 75 percent of the pre-war level, 1909–14. No industry could be expected to function very long under such a tremendous handicap and remain solvent.

The Wages and Hours Act, as it has been misinterpreted, simply operates to make the old disparity greater than ever. As we see it, Congress has a responsibility in this matter that it cannot afford to evade. We trust that the Barden bill may be enacted.

Mr. Edward A. O'Neal, president of the American Farm Bureau Federation and an outstanding New Dealeer, sent a telegram to Members of Congress which reads as follows:

Urgently request you support Barden bill amendments to Wages and Hours Act. Unreasonable construction of area of production by wage-hour Administrator makes amendment of act imperative. Farmers producing perishable and seasonal commodities already receiving less than parity prices and income. Cannot stand increased costs in marketing of such commodities.

Mr. C. L. Brody, executive secretary of the Michigan State Farm Bureau, advised the Michigan Members of Congress as follows:

We understand that the Barden bill to amend the wages-and-hours law will come before the House Thursday or Friday of this week. We are convinced that the enactment of this legislation will give agriculture relief from certain interpretations of the act as follows:

(a) Modify the hour restrictions in certain agricultural trades and industries;

(b) Clarify the area-of-production problem that has arisen from the restricted definition promulgated by the Wage and Hour Administrator;

(c) Put a statute of limitations period of 6 months upon the time in which action to recover time and a half overtime can be maintained. This is designed to prevent the unwarranted accumulation of overtime with the resultant possibility of complete ruination of business for any technical violation of the act;

(d) Exempt under certain conditions employees working under higher salary brackets.

We are glad to give you our position on the Barden amendments at this time, and hope that it will be helpful to you in your consideration of the bill.

The National Cooperative Milk Producers' Association had this to say about the Barden bill:

In the interest of all agriculture, our organization, which represents approximately 350,000 dairy-farm families, urgently requests the passage of the Barden bill (H. R. 7133) to amend the Fair Labor Standards Act.

The Barden bill not only clarifies the wage-and-hour exemption provisions of the law but reiterates and carries out the original intention of Congress to exempt operations of employees engaged in the preparation of farm products for market. While specific exemption of such operations was provided for in the wage-hour law, the unwarranted and unreasonable definitions given "area of production" and other terms contained in that act by the Wage and Hour Administration have, for the most part, nullified these exemptions and have deprived farmers of their benefit.

Denial of these exemptions results in saddling increased production costs on the farmers. This tends to widen the existing disparity between prices farmers receive and pay at a time when farm prices and income are still below the parity level which Congress, in the general farm program, has provided as the goal to be reached.

It is vital to American agriculture that the Barden bill be passed. The passage of the bill gives needed relief to agriculture and insures preservation of the specific exemptions which Congress provided in the original wage-hour law with respect to employees engaged in preparing farm products for market.

The bill has the support of the major farm organizations of the country which are sincere in their belief that the wage-hour law has not been administered consistent with the express intention of Congress when it passed the law.

We accordingly respectfully urge that you support the Barden bill—H. R. 7133.

In short, organized agriculture favored the Barden bill because the interpretation placed upon the wages-and-hours law by the previous Administrator works a direct injustice to agriculture. We, who were Members of the Congress when