EXHIBIT G

To Amend the Constitution : hearings before the United States House Committee on the Judiciary, Seventieth Congress, second session, on Feb. 13, 14, 18, 1929.

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House

To amend the constitution.

70:2; H.J.Res. 102, 351: Feb. 13-18, 1929.

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TO AMEND THE CONSTITUTION

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HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

SEVENTIETH CONGRESS

SECOND SESSION

ON

H. J. Res. 102

H. J. Res. 351

Serial 38

FEBRUARY 13, 14, AND 18, 1929

UNITED STATES
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CONTENTS

Statements of— Page

Hon. Homer Hoch, Member of Congress from the State of Kansas 2
Hon. Gale H. Stalker, Member of Congress from the State of New York 20
Mr. Wm. H. Anderson, New York City 20
Mr. Royal C. Stephens, president Patriotic Citizens Civil League 22
Hon. Charles Brand, Member of Congress from the State of Ohio 27
Hon. Grant M. Hudson, Member of Congress from the State of Michigan 29
Hon. Homer Hoch, (resumed) 31
Hon. Franklin Menges, Member of Congress from the State of Pennsylvania 33

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SEVENTIETH CONGRESS

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TO AMEND THE CONSTITUTION

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Wednesday, February 13, 1929.

The committee met at 10.30 o'clock a. m., Hon. George S. Graham (chairman) presiding.

The CHAIRMAN. The business specially for to-day is the hearing upon the joint resolution offered by Mr. Hoch, to amend the Constitution by adding, at the end of the first sentence to section 2, Article XIV, the words "and aliens." There is also a joint resolution in the hands of the committee offered by Mr. Stalker, to amend the Constitution by adding a new article as follows:

Aliens shall be excluded in counting the whole number of persons in each State for apportionment of Representatives among the several States according to their respective numbers.

You will consider that resolution as before the committee at the same time, but Mr. Hoch's resolution is first in order and he will be heard first.

[H. J. Res. 351, Seventieth Congress, second session]

JOINT RESOLUTION Proposing an amendment to the Constitution of the United States

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following amendment is proposed to the Constitution of the United States, which,

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when ratified by the legislatures of three-fourths of the several States, shall be valid to all intents and purposes as a part of the Constitution:

Amend section 2 of Article XIV by adding at the end of the first sentence of said section the following words "and aliens".

[H. J. Res. 102, Seventieth Congress, first session]

JOINT RESOLUTION Proposing to amend the Constitution of the United States to exclude aliens in counting the whole number of persons in each State for apportionment of Representatives among the several States

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following amendment to the Constitution of the United States be proposed to the several States, which, when ratified by the legislatures of three-fourths of the States, shall be valid and binding as a part of the Constitution of the United States.

"ARTICLE —

"Aliens shall be excluded in counting the whole number of persons in each State for apportionment of Representatives among the several States according to their respective numbers."

STATEMENT OF HON. HOMER HOCH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS

Mr. HOCH. Mr. Chairman and members of the committee, House Joint Resolution 351 which we are to consider is very short and I would like to ask that it be inserted in the record at the beginning of the hearing, in order that we may have it before us.

I am sure it is not necessary in this presence to say that it is always a serous thing to suggest any amendment to the Constitution of the United States, however minor in phrascology that amendment may be; for, of course, we all of us pay the greatest homage to the wisdom and the foresight of the framers of the Constitution under which our country has grown and prospered. And I would not be here to present a matter of this sort if I did not believe that the amendment here proposed, which deals with the basis of the apportionment of Representatives in the House of Representatives, touches a fundamental consideration and that the present situation is fraught with very serious injustices to some of the States of the Union and has within it very serious possibilities.

Section 2 of Article XIV of the amendments of the Constitution reads as follows; the first sentence:

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.

The CHAIRMAN. Your amendment just adds the words "and aliens" after that.

Mr. HOCH. The amendment simply adds the two words "and aliens," so that the sentence will read—

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed and aliens.

The same result might be obtained by other methods, of course. We might add a new article to the amendments, or I think the same result would be achieved by changing the word "persons" in the sentence which I have just read to the words "citizens." The method,

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however, is not the important thing. I have suggested the method here because it seemed to me that, by adding the words "and aliens," we call attention at once to the ordinary reader of the purpose of the amendment. In other words, it is proposed to exclude aliens from the count in each State upon which the number of Representatives in the House of Representatives is apportioned.

Let me say, at the outset, that this involves in no way an attack upon the aliens. Those aliens who are in America lawfully are, of course, entitled to the protection of all of our laws that apply to them and are entitled to the privileges which we have extended to them under our laws. The only question is whether it is right that the aliens—and by "alien," of course, I use the word in the technical sense, an unnaturalized foreign-born person—whether it is right that these unnaturalized foreign-born persons should be counted in determining the number of Representatives which the State shall have and shall also, therefore, as a result, be counted in determining the number of votes which that State shall have in the electoral college, in the election of a President and Vice President of the United States.

The change here suggested, in my opinion, is in no way contrary to the spirit of the Constitution; rather, it is a proposed change to meet an entirely changed situation and condition from that which existed when the Constitution was framed, and a changed situation which has arisen especially within the last 10 years, as I shall show a little later on.

Briefly, let me recall the situation at the time the Constitution was framed. All of the members of this committee, of course, recall the great controversy which waged in the Constitutional Convention over the constitution of the legislative branch of the new Federal Government that was to be established. There were many issues over which there was sharp controversy—the question of the relative strength of the large States and the small States; the question of whether States which should subsequently be admitted into the Union should be admitted upon an equality in all regards, and so forth. And you will recall that there were those among the leaders, many of them, who insisted that the new States which should subsequently come in should be limited in their representation and provision should be made by which the States then going into the Union should always maintain a dominance in the legislative branch. Without going further into those questions, interesting as they are, let it be noted here again, simply by way of an orderly statement of this proposition, that out of it came, in the first place, the compromise by which two branches were set up—the one in which each State, regardless of wealth, regardless of size, or population, should have an equal vote in one legislative branch with every other State; in the other branch, the States should have a vote according to their population, which was to be the popular branch of the Federal Legislature. And then there came the question of how this popular branch was to be constituted—in what proportion were its representatives to be apportioned among the States then existing and among the States which should subsequently be admitted into the Union?

Perhaps the most insistent contention which was rejected by the Constitutional Convention upon this proposition was a contention that the representation should be partly, in fact largely, based upon the property, upon the wealth of the various States. And some of

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the most distinguished early leaders insisted that that should be included as a basis of representation in the House of Representatives. There were those who contended, vigorously, that the primary purpose of government is the protection of property rights. Happily, as we look back upon it now, I am sure we all rejoice that that contention was rejected and that wealth, property rights, were not made a basis of representation among the States in the popular branch of the Congress. As we look through all of those controversies, we note that there was no discussion whatever with reference to the matter here suggested this morning, as to whether aliens should be counted, and the sentence which I have just read from the fourteenth amendment (which in that respect follows the original Constitution), uses the word "persons," and the only reason that we are here this morning is because it is contended, that the word "persons" must be held to include both aliens and citizens. But there was no discussion of that in the Constitutional Convention and that may, at first thought, seem surprising to us; but if we recall the situation which existed when the Constitution was framed with reference to aliens and our naturalization laws, the reason becomes readily apparent. The crying need of that day was for more people in America. You will recall that one of the complaints against George III, in the Declaration of Independence (and let me just read the sentence), was this:

> He has endeavored to prevent the population of these States, for that purpose obstructing the laws for naturalization of foreigners, refusing to pass others to encourage, migrations hither and raising the conditions of new appropriations of and.

The whole temper of the times was different from that which faces us to-day, and I recall to your minds this fact, that when the Constitution was adopted there were practically no naturalization laws in America in the sovereign States which entered into the compact of the Federal Union. There were no naturalization laws in Connecticut; there were none in New Hampshire; there were none in Pennsylvania; there were none in North Carolina; none in Georgia. And the remaining States had the simplest sort of naturalization laws. For instance, in Massachusetts no length of residence was required; the only thing that was necessary was to take the oath of allegiance to the Constitution and to the country. I might go through the various laws; perhaps it would be of interest. Delaware required simply an oath of allegiance to become a citizen; no length of residence required. However, in Delaware, although persons might thus become citizens, they could not hold certain offices until five years after they had become citizens. In Maryland all that was necessary was to take the oath of allegiance; and Maryland had one additional phrase, that they must declare their belief in the Christian religion. They could not hold certain offices, however, until seven years. In New York the only thing that was necessary was a petition to the legislature and a certain formal proceeding, without any requirement of residence. In South Carolina, after one year, they might take the oath, but could not vote or hold certain offices until they had been a citizen two years. In Virginia two years' residence was required; an oath of allegiance and intention to reside here permanently were the only two requirements.

There was no State law which required a declaration of intention to become a citizen prior to naturalization. In fact, the declaration

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of intention was a later development in our history. The first Federal law providing for naturalization contained no requirement of declaration of intention. The first Federal law (which, as you know, was enacted under the specific grant of power to Congress to pass a uniform naturalization law), simply provided that any alien who had resided here two years might be admitted by making proof of character (that is the first time that was introduced), and taking the oath of allegiance. Let me state again that not only did a number of the States, as I have mentioned, have no naturalization laws whatever, but in no State was there any test of knowledge of our institutions nor was there even the necessity that an applicant should speak the English language, and the taking of the oath of allegiance was practically the only thing that was required in order to become a citizen of the United States.

In that situation, we can certainly understand why no lines were drawn, at the time the Constitution was framed, between citizens and aliens, because no line could be drawn. The word "alien" had no definite meaning in our established policy and, if the Constitution had used the word "alien," we would have had in the various States no uniformity whatever as to what an alien was. Aliens voted in many of the States; in fact, and I might as well proceed to that point right here, although I had intended to reach it later, for many years in our country aliens voted in many of the States, and it is a matter of very recent development where we have no State where an alien is permitted to vote. Since 1917, seven States of the Union have changed their constitutions in order to take away the right of an alien, who had simply declared his intention to become a citizen, to vote.

Mr. TUCKER. How many States?

Mr. HOCH. Seven States, since 1917. In 1917 there were still seven States in this Union where an alien might vote; because after he has simply declared his intention, he is, of course, still an alien. As some one has worded it, he is in something of "an inchoate state of citizenship," but he is still technically an alien until he becomes naturalized. Yet in 1917 there were seven States where an alien who had declared his intention might vote and, of course, it is not necessary to state here that the matter of suffrage is primarily a State function and that the Federal Government has no jurisdiction over the matter of suffrage, aside from the limitations which are to be found in the Constitution of the United States, particularly in the fourteenth, fifteenth, and nineteenth amendments to the Constitution. The States having it within their own power to determine the conditions and the qualifications of suffrage, that situation I have referred to with reference to aliens is to-day entirely changed and there is no State in this Union to-day where an alien can vote until he has been fully naturalized and has met the other conditions of suffrage in the State. All seven of those States and let me name the States—Arkansas, Indiana, Kansas, Missouri, Nebraska, South Dakota, and Texas—have changed their constitutions and put them in line with the situation reached by the other States before that time, where it requires full citizenship as a condition precedent to suffrage.

Mr. TUCKER. The other States besides the seven that you have mentioned—did you say that all of them had in their constitutions that no alien could vote?

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Mr. HOCH. I say that to-day all of them have in their constitutions that no alien can vote; that is to say, as a condition of suffrage in every State of the Union to-day, one of the conditions precedent is citizenship. And I call that to your attention—I think the reason is evident—to show you that the situation to-day is diametrically opposed to the condition which existed at the time the Constitution was framed and that the change here proposed is, therefore, in no sense contrary to the spirit of the Constitution and, as I veritably believe, is in harmony with the very genius of the Constitution. It meets a changed condition by virtue of these changes in the various States and by virtue of an entirely different situation which we have to-day with reference to naturalization and immigration.

I think that no one has given a better statement of the fundamental consideration upon this subject than was given by Madison in the Constitutional Convention. Let me read it. I read from Elliott's Debates on the Federal Constitution, reading now from page 289:

"Mr. Madison reminded Mr. Patterson that his doctrine of representation which was, in its principle, the genuine one, must forever silence the pretensions of any small States to equality of votes with the large ones"—

that is in the House of Representatives.

Now here is the sentence I particularly call your attention to:

* * * They ought to vote—

that is, the States in the House of Representatives—

in the same proportion in which their citizens would do if the people of all the States were collectively met.

I read again from Madison at page 314:

"He [Madison] appealed to the doctrine and arguments used by those on a former occasion. It had been very properly observed by Mr. Patterson, said Mr. Madison, that representation"—.

And I ask you to get this; that is, representation in the House of Representatives—

* * * was an expedient by which the meeting of the people themselves was rendered unnecessary and that the representatives ought, therefore, to bear a proportion of the votes which their constituents, if convened, would respectively have.

In other words, the contention was that the House of Representatives was the voice of the people and, because it was impossible for all of the people to gather and register their will in legislative enactments, their Representatives from the various States should vote in the House of Representatives in the same proportion that those people would vote if they were collectively assembled to legislate for the public welfare.

Now, if we applied that principle to the condition which existed at the time the Constitution was adopted, obviously many, if indeed in not all of the States, in many at least of the States, the aliens, if gathered together, would be permitted to vote. But is that true to-day? Why, we have said by constitutional enactment in every State of the Union that it is not true and, if the people in all of the States to-day collectively were gathered to register their legislative will in the House of Representatives, of course we would not permit the aliens to vote when they are not permitted to vote under the suffrage laws of the sovereign States from which they come. There-

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fore I say it is a fundamental proposition which Madison lays down, absolutely applicable to the situation which confronts us to-day and which, of course, as I view it, makes the adoption of the amendment here proposed entirely consistent with the theory upon which our House of Representatives was constituted.

I do not know, Mr. Chairman, how much time I am supposed to take, but this is a matter in which I hope you will bear with me. I do not want to take too much time, but I come now to the preactical effect of the present situation under which, for all these years, aliens are counted in a State in determining the number of Representatives from that State. I have it from the Commissioner of Immigration that there are probably between seven and eight million aliens in the United States. That is no inconsiderable proportion of our total population. That is more than the total combined population of a considerable number of our States, Therefore, this is no trifling matter that we are here considering.

Mr. WELLER. Have you the figures of the alien population of the State of New York?

Mr. HOCH. I do not have them at hand; but, as I recall them, it was something like 1,600,000. I think that is the number.

Mr. WELLER. It was over a million?

Mr. HOCH. I think that is the last estimate. I will be glad to get it accurately and put it in the record if the committee desires.

Mr. LAGUARDIA. Is that the statement of the Commissioner General of Immigration?

Mr. HOCH. That is the statement to me by Mr. Hull, the Commissioner General of Immigration.

Mr. HICKEY. Have you the alien population of all States?

Mr. HOCH. I do not have it at hand, and of course such figures as we now have are of the 1920 census; we do not have the accurate figures as of to-day.

The CHAIRMAN. The committee would like to have the figures for all of the States.

Mr. HOCH. I shall be glad to furnish them.

The CHAIRMAN. They will have a determining influence upon our minds as to the exclusion of aliens, because it will affect the total number of Representatives.

Mr. HOCH. Yes. I do have here an apportionment of the House of Representatives at 435, as prepared for me by the Census Bureau, upon the basis of the exclusion of aliens as compared with the apportionment including the aliens, which table I here present for the record.

The CHAIRMAN. Presenting the contrast with and without?

Mr. HOCH. Yes; I have it here in table form.

Mr. DOMINICK. Is that based upon the 1920 Census?

Mr. HOCH. This is based upon the 1920 census. This is headed—

Table showing a reapportionment of 435 Representatives in Congress on the basis of the total population as compared with a reapportionment based on the population exclusive of the foreign born who have not become naturalized. It is based on the census of 1920 and the method of "major fractions" was used.

This table, which I submit for the record, shows that 16 States (one-third of the States of this Union), would be affected if we were to reapportion to-day upon the 1920 census, excluding the aliens as compared with the inclusion of the aliens. If we were reapportion-

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ing to-day upon the 1920 census, in other words, we would find that if we excluded the aliens there would be 16 States of the Union which would have a different representation in the House of Representatives than they would have if we included the aliens under the 1920 census. Those 16 States, if the committee is interested here, I may name—and bear in mind that this is a comparison between a reapportionment under the 1920 census, excluding the aliens and including aliens:

Arkansas, instead of retaining its present number of Congressmen, would gain one.

California, instead of gaining three, would gain two.

Connecticut, instead of gaining one, would remain the same.

Georgia, instead of remaining the same, would gain one.

Indiana, instead of losing one, would remain the same.

Kansas, instead of losing one, would remain the same.

Kentucky, instead of losing one, would remain the same.

Louisiana, instead of losing one, would remain the same.

Mississippi, instead of losing one, would remain the same.

Massachusetts, instead of remaining the same, would lose two.

Missouri, instead of losing two, would lose one.

Nebraska, instead of losing one, would remain the same.

New Jersey, instead of gaining one, would remain the same.

Oklahoma, instead of remaining the same, would gain one.

New York, instead of remaining the same, would lose four.

Pennsylvania, instead of remaining the same, would lose one.

Mr. DOMINICK. The balance of the States not named would remain the same?

Mr. HOCH. The other States, based on the 1920 census, would not be affected. Of course, what would happen upon the basis of the 1930 census is entirely problematical.

(The table above referred to is as follows:)

Table showing a reapportionment of 435 Representatives in Congress on the basis of the total population as compared with a reapportionment based on the population exclusive of the foreign born who have not become naturalized. It is based on the census of 1920 and the method of "major fractions" was used

State	Present membership	Reapportionment on basis of—	
		Total population	Total population excluding aliens (unnaturalized foreign born)
Total	435	435	435
Alabama	10	10	10
Arizona	1	1	1
Arkansas	7	7	8
California	11	14	13
Colorado	4	4	4
Connecticut	5	6	5
Delaware	1	1	1
Florida	4	4	4
Georgia	12	12	13
Idaho	2	2	2
Illinois	27	27	27
Indiana	13	12	13
Iowa	11	10	10
Kansas	8	7	8
Kentucky	11	10	11
Louisiana	8	7	8

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Table showing a reapportionment of 435 Representatives in Congress on the basis of the total population as compared with a reapportionment based on the population exclusive of the foreign born who have not become naturalized. It is based on the census of 1920 and the method of "major fractions" was used—Continued.

State	Present membership	Reapportionment on basis of—	
		Total population	Total population excluding aliens (unnaturalized foreign born)
Maine	4	3	3
Maryland	6	6	6
Massachusetts	16	16	14
Michigan	13	15	15
Minnesota	10	10	10
Mississippi	8	7	8
Missouri	16	14	15
Montana	2	2	2
Nebraska	6	5	6
Nevada	1	1	1
New Hampshire	2	2	2
New Jersey	12	13	12
New Mexico	1	1	1
New York	43	43	39
North Carolina	10	11	11
North Dakota	3	3	3
Ohio	22	24	24
Oklahoma	8	8	9
Oregon	3	3	3
Pennsylvania	36	36	35
Rhode Island	3	2	2
South Carolina	7	7	7
South Dakota	3	3	3
Tennessee	10	10	10
Texas	18	19	19
Utah	2	2	2
Vermont	2	1	1
Virginia	10	10	10
Washington	5	6	6
West Virginia	6	6	6
Wisconsin	11	11	11
Wyoming	1	1	1

Mr. LaGuardia. That is based on the 1920 census. Since 1920, the act of 1924 has gone into effect and, naturally, there has been the regular proportion of deaths among aliens the same as among others, and children of unnaturalized aliens have become of age and have been born, and the difference in 10 years, owing to our change in immigration policy, might make quite a difference in the computation. Do you not think so?

Mr. Hoch. I think it doubtless would make some difference; but, how much difference, no one can say. But certainly the existence of between seven and eight million aliens in this country, congregated as we know they are, quite largely, in a comparatively few States, although scattered all over the country, would make a very substantial difference. I am not prepared to say, nor is anyone prepared to say, that there would be fewer States affected by the 1930 census than there would be by the 1920 census.

Mr. LaGuardia. Was it part of the duty of the Census to ascertain the citizenship in the 1920 census, or was that just an incident?

Mr. Hoch. Well, I have not examined the law.

Mr. Christopherson. That is part of its duty, I think.

Mr. Hoch. It has been done, as a matter of fact; whether it is a matter of regulation or of law, I am not prepared to say.

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Mr. CHRISTOPHERSON. It is part of the information that the census is to get.

Mr. HOCH. At least it is part of the information which they do get. It certainly is not necessary for me to emphasize the importance of the representation of any State in this Union in the transaction of the business of the House and in a vote upon the many important questions that are presented to the House.

Mr. BOIES. Why do you refer to the vote as affecting the House; does it not affect the Senate at all?

Mr. HOCH. No, Judge. You see, it does not affect the Senate; because, of course, the Senate is not affected by this apportionment.

Mr. BOIES. But if they could vote, they could vote for a Senator as well as a Representative.

Mr. HOCH. Yes. Of course, Judge, I am not here discussing the question of suffrage as such; I am simply discussing the question of whether there should be any votes in the House of Representatives based solely upon alien population.

Mr. LAGUARDIA. Based solely?

Mr. HOCH. Certainly. I say that, under this showing here, there would be four from the State of New York, if I may be specific, the very existence of which in the House is based solely upon the presence of alien population in the State of New York.

Mr. LAGUARDIA. Does the gentleman then assume, if it is based solely on alien population, that four congressional districts have nothing else but aliens constituting their population?

Mr. HOCH. Oh, no; I do not say that all the aliens are in four districts; but I say there are four votes on the basis of the 1920 census, from the State of New York, that are here and in action solely because of the fact that there is congregated in the State of New York a tremendous body of aliens. And I call your attention to this fact, that every time you give to one State an additional vote in the House on the ground that a certain number of aliens happen to reside within that State, by the same procedure you take that vote away from other States where the vote would be based upon citizen population.

Mr. DOMINICK. May I suggest one thing that has occurred to my mind there, Mr. Hoch, in response to the suggestion by Mr. LaGuardia: Would it not be possible for these aliens to be so distributed among all of the several districts of the State of New York that it would make no change whatsoever in the number of Representatives in the House?

Mr. HOCH. No, it would not be possible.

Mr. DOMINICK. For instance, if there are 7,000,000 there and 45 districts, is it not within the realm of possibility——

Mr. HOCH. Not at all.

Mr. DOMINICK (continuing). That that 7,000,000 could be so distributed amongst the immense population of New York that it would not affect them in so far as fractions were concerned, and they would hold the same representation?

Mr. HOCH. No; you could not distribute them within the State in a way so as not to affect the representation. You might, of course, conceive of all the aliens so distributed among all of the States in the Union that the result would not change the proportion; but if you have 1,600,000 aliens in New York State, for instance, regardless of whether they are in one district or scattered in all of the districts,

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the existence of 1,600,000 aliens in the State of New York gives the State of New York four more Representatives than it would otherwise have, regardless of how they are distributed. If we are to go into the realm of conjecture, we may also conjecture that a large part of those aliens might be congregated in certain districts and the fact is (and we might as well speak plainly) that the bulk of those aliens (and I use New York not in any sense of opprobrium to New York, but only because New York has been singled out as an illustration) are assembled in a comparatively few districts and there would be found districts in New York State where a large proportion of the constituency are foreign-born, unnaturalized persons.

Mr. DOMINICK. My point is just this, Mr. Hoch: For instance, of the 1,600,000 aliens in New York State, if they were equally distributed throughout New York State, that would be less than 40,000 in each district, and I imagine, if you will examine the apportionment at this time you will find more than 40,000 population difference in some of the districts.

Mr. HOCH. Of course, there is no doubt about that, but the question I understood you to raise was whether the distribution within the State would in any way affect the number of Representatives it would have.

Mr. SUMNERS. You were merely speaking of the delegations as entities?

Mr. HOCH. Yes; I was taking the delegations as entities, and New York State will have four more Representatives.

Mr. DOMINICK. I understand, but the reapportionment is not made on that basis; it is so much for a district.

Mr. HOCH. Oh, no. If I may make that perfectly clear, the apportionment is made solely upon the basis, when you come to the Constitution which we are seeking here to amend, that they shall be apportioned among the several States according to the number of persons in each State. And you take the total number of persons including aliens in the State of New York, regardless of what districts they are located in, and by virtue of the fact the State has within its borders that many persons, whether aliens or citizens, gives to that State its proportionate number. Now, when it comes to the matter of districting the State, that is a matter for the State Legislature to determine.

Mr. CHRISTOPHERSON. By reducing it 1,600,000, that would naturally reduce the number of districts, using the multiple of the basis of apportionment.

Mr. HOCH. Yes; using the multiple, it would reduce the number of districts by four in the illustration I have given, in the State of New York.

Mr. DYER. In other words, it would be incumbent upon the State to reapportion the State and divide it equally, according to section 2 of the Constitution, Article X. Of course some States might do, as my State does, refuse to apportion and allow people not to be represented on the basis of the Constitution. New York might do that.

Mr. HOCH. Yes; New York might elect them all at large. Of course that is true entirely aside from this alien question. We passed the reapportionment bill and whether aliens are included, or excluded, of course it is solely up to the States as to whether

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they shall district their States; because, if I read the Constitution correctly, the Constitution says nothing whatever about the erection of districts within the State, and that is a matter for the State to determine.

Mr. LaGuardia. Fundamentally, then, you argue that the apportionment should be according to the voting strength of each State?

Mr. Hoch. I have suggested citizenship rather than voting strength; although, Mr. LaGuardia, suffrage is coming to have approximate proportion to citizenship, but not entirely so.

Mr. LaGuardia. You would not exclude children and minors, would you?

Mr. Hoch. The Constitution says according to the number of persons. Now that, of course, includes children; it includes everyone, we may assume, who is within the borders of the State, although I think that, perhaps, is subject to some reservations. But basing it upon citizenship would presumably give about the same proportion that you would have if based upon suffrage; because we may assume that people marry and have children in about the same proportion in one State as in another. And I am not here suggesting suffrage as a sole basis. In the days before we had equal suffrage, for instance, there would have been a very great difference if it were based upon suffrage, when some States permitted women to vote and other States did not permit women to vote. But by basing it upon citizenship, we reach a ground that is common to all States. That is the only question.

Mr. LaGuardia. Your amendment would not exclude the counting of children?

Mr. Hoch. Not at all. All persons would still be counted and may I say, of course, the children born in this country of alien parents would, of course, also be counted; because, under the fourteenth amendment, they are citizens of the United States although their parents may never become citizens of the United States.

Mr. LaGuardia. For your computation for the future study, I will just state that for every one of those aliens in New York that you talk so much about, who are not citizens, they have about five to eight native-born citizens who are children.

Mr. Hoch. Well I am not seeking to change our Constitution which provides that all persons born in the United States are citizens of the United States and of the respective States; I am not, of course, seeking to change that situation.

Now I do not want to take too much time and so I will say, in conclusion upon this phase of the subject, that when it comes to casting a vote in the House of Representatives upon all of the important questions that we confront, even including a declaration of war, which is an illustration that might be made, that raises a very serious question in connection with this proposition. By no test of logic, by no sound theory of government that I know about, by no sound Americanism that I know about, is it proper to count those who are foreign-born, who have not become naturalized citizens of the United States.

Mr. LaGuardia. Right there: Will you be good enough, then, to put in an analysis of the vote of the various delegations on the Spanish-American War and also the German war? You will find——

Mr. Hoch. I am not casting any reflections upon any Member of the House upon any proposition; I am raising the naked question as

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a governmental issue and I hope we can approach it in that respect, aside from any of these incidental and irrelevant things that might be raised—the naked question whether it is a proper theory of government that those who do not yet owe allegiance and have not established their citizenship in America should be counted in determining the representation of that State in the popular branch of the American Congress.

I now raise the second question, which, in my mind, is of equal if not of greater importance. Is it right, is it sound governmentally, that any State in this Union should have its vote in the Electoral College upon the election of the President and Vice President of the United States increased, or another State should have its vote in the Electoral College decreased, solely because there happens to be in one State a great gathering of aliens and in the other State there does not happen to be. We might easily have a situation, and this is no fancy, where the Presidency itself would depend solely upon the fact—with no other consideration whatever—that in a certain State there resided a great number of aliens. And I leave it to the sober judgment of this committee whether, in a situation such as that, the result would be one consistent with any proper theory of the participation of States in the legislative branch of the Government or in the election of a President and Vice President of the United States.

Now some one has suggested—and I think perhaps it is involved in the question, Mr. LaGuardia, which you asked a moment ago—whether, as time goes on, the situation will not cure itself. I say that as long as there is a possibility of the change of one vote in the House of Representatives, the change of one vote in the Electoral College, based solely upon the existence, if you please, within a State of a body of aliens, the situation is not cured from a proper governmental standpoint, and I am not at all sure it will be cured even though we adopt stricter immigration laws than we have now. I go back in our history and I find the situation has not materially changed. It is an interesting fact that when the fourteenth amendment was being discussed upon the floor of the House and this issue was discussed by Thaddeus Stephens of Pennsylvania, who was head of the Joint Committee on Reconstruction following the Civil War, he called attention to the States which would then have added representation based solely upon aliens. And it is rather significant, to use New York as an example again, that it so happens New York then had, according to his estimate, about the same number of votes that they have to-day, namely, three or four, based on aliens, and he gave a number of other States by way of illustration. So that the situation has not cured itself.

Mr. LAGUARDIA. What interests me more than anything else is this: The tendency now all over the world is to get away from representative government. Should we pass a resolution, would it not be the first step for further restriction of the right of suffrage and representation? I can not imagine any other fair restriction that might be imposed that would limit representation of the citizenship and, if your amendment were adopted, would you be willing to add that no further restriction upon representation shall be placed in the Constitution unless with the consent of all the States (that is in the Constitution now), or representation in the Senate?

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Mr. HOCH. I have not given any thought to that at all. I know of no other restriction proposed.

Mr. LAGUARDIA. I do not, either; but the gentlemen will recall, in the debates in the Constitutional Convention, there was a great deal of talk there of fixing representation or suffrage upon a property qualification.

Mr. HOCH. I would say this, knowing as we all do the conservatism of the American people, particularly with reference to the Constitution—and I am sure we all agree with that conservatism—that personally I have no fear at all that any unwise amendments in this regard would subsequently be adopted to the Constitution. And it seems to me this is no radical step whatever, just basing the representation upon citizenship, and I do not at the moment have in mind any limitation that might subsequently be agreed to by the American people that we ought, at this time, to have in fear.

Mr. SUMNERS. You could not do it anyhow.

Mr. HOCH. Even though we could do it.

Mr. SUMNERS. The original provision of the Constitution, which is rigid and I think was agreed to in the original compact, excluded, from the power to amend, a provision of the Constitution with reference to that. And, certainly, any subsequent acts would be subject to the general provision.

Mr. LAGUARDIA. I think the gentleman from Texas is right.

Mr. TUCKER. Your amendment evidently contemplates that it is necessary in order to exclude them.

Mr. HOCH. Yes; it does, because that is the language of the Constitution, and I think in a very real American sense it is necessary.

Mr. TUCKER. I have not come to any conclusion upon the subject, but I find my mind tending very strongly to the view that what this amendment would accomplish may be accomplished without any amendment.

Mr. HERSEY. How?

Mr. TUCKER. As I say, I have not come to any conclusion about it, but this Constitution was made for the people of the United States—"we, the people of the United States." I do not often quote that provision in the preamble with much pleasure, and I think it has been perverted very often, but I think there are landmarks all through this Constitution showing that it is made for the people of this country and not for aliens.

Mr. HOCH. Yes.

Mr. TUCKER. I was wondering if your argument included anything on that line.

Mr. HOCH. I gave very serious consideration myself to the question of whether the word "persons," which is the key word in this matter, might be interpreted by legislative enactment in a way that would stand the test of constitutionality not to include aliens, and I confess that there is some little doubt in my mind. I suggest a proposition to illustrate that doubt. I will take an extreme illustration to raise the issue: Suppose in the State of Kansas we happened to have at the time the census was taken a million alien visitors, people who admittedly were transients, tourists; and at the time the census was taken they were within the State. Now, the exact language here is——

Mr. HERSEY. Well, could the tourists be counted?

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Mr. HOCH. Judge, I am just raising that question for illustration.

Mr. TUCKER. They are persons within the United States.

Mr. HOCH. Yes, and it says "count the whole number of persons in each State."

Mr. HERSEY. That means residents, does it not?

Mr. HOCH. That is the question here. The word is "persons," shall count the "whole number of persons." Obviously those transients are persons; obviously they are within the State; yet I think we would all say that certainly there was no intention to count them. Yet, if we are to be absolutely strict in our interpretation, without any reservations, we would have to include them. And I think, judge, it might be argued that an alien is a transient in a sense; he might be classed as one who has not yet full residence in America, the same as a tourist. If I may divert just a moment, I considered the question very seriously in connection with the reapportionment bill just passed, whether it would be proper to seek to engraft upon the reapportionment bill this provision I now seek to put in the Constitution. But because I favored a reapportionment measure and realized it certainly was a very doubtful matter at least, I did not desire to seek to put the provision upon the reapportionment bill, which would require an amendment to the Constitution. But, of course, the moment we admit any reservations to the word "persons," such as this one of transients, certainly we must admit that there is raised at least the academic question as to whether, having made one reservation, we can, therefore, make another reservation—namely, citizenship.

Mr. DYER. Mr. Hoch, this provision of the Constitution, in my judgment, is not being obeyed at the present time. Representatives are not apportioned among the several States according to the Constitution and why take on more trouble until we can get that corrected? Now the gentleman here from Michigan, I think, among several Members of this House, represents some six or seven hundred thousand people—do you not, Mr. Hudson?

Mr. HUDSON of Michigan. About a million and a half.

Mr. DYER. About a million and a half in his district. I have one district in my State that has more than six hundred thousand, and some districts in my State and other States have only 150,000 to 160,000 people. And until we can get a reapportionment and have the country apportioned according to the Constitution, why worry about your amendment?

Mr. HOCH. Well we have just passed in the House a reapportionment measure.

Mr. DYER. It is not going to pass the Senate, though.

Mr. HOCH. If you will pardon a personal reference: Believing as you have suggested, Mr. Dyer, that there is a mandate in the Constitution for reapportionment, I resolved some objections which I had to the particular measure in favor of a vote for it, in spite of the fact my own State of Kansas would lose one vote under it. But that reapportionment measure is pending and its very provisions do not apply if it should become a law until the 1930 census, and that is one of the very reasons that I here propose an amendment to the Constitution, in order that the people of the United States may have a chance to pass upon this question in connection with the reapportionment.

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And I, personally, would not do anything to obstruct a reapportionment under the present Constitution; but I see no inconsistency—in fact, I claim a very great consistency—in insisting, at the same time, upon amendment of the Constitution in the way I have outlined.

Mr. HERSEY. If you will permit me, I think you will agree with me that the gentleman from Missouri, Mr. Dyer, is capable of representing a million people.

Mr. HOCH. I think we can take judicial notice of that.

Mr. MOORE. Have you considered whether or not it might have any coercive influence upon aliens, to in any way influence them to become citizens, when really they did not care to be, otherwise?

Mr. HOCH. I think any measure which would lead to naturalization, proper naturalization of proper persons, subject to naturalization in this country, would be a good measure. And while I do not want to stop to discuss it, I think there are many observations that might properly be made in criticism of the policy we have pursued in this country of permitting indefinite residence in this country without becoming citizens.

Mr. MOORE. Assuming they are in the country and we would like to see them become citizens if they wanted to be, but assuming they did not want to be and we insisted upon their becoming citizens, do you not think it would be better for them not to be citizens, than to have them become unwilling citizens?

Mr. HOCH. That is a problem that arises in every naturalization case. Whether we count them or not, I certainly think if any State has a body of aliens who are proper to become citizens, all that State needs to do in order to hold its representation, based upon those persons, is to bring about the naturalization of those persons and they then are subject to all the obligations as well as entitled to all the privileges of an American citizen.

Mr. MOORE. When you give them all of the privileges, the point of my question is how are you going to make them become citizens, even though they say they are going to become citizens?

Mr. HOCH. You never know that and you can not know it, whether you pass this amendment or not.

Mr. LAGUARDIA. The trouble now is not that they are not willing, but there are so many captious and unreasonable reasons given for refusing the application.

Mr. HOCH. No doubt there are all sorts of reasons of thousands of aliens that are entirely honest, of course; there are other thousands and hundreds of thousands of men, though, who have no intention of becoming citizens.

Mr. MOORE. Then I am taking that group that have no intention. Would you also agree that they really did not care to be citizens?

Mr. HOCH. I will agree there are a great many people who apparently do not care to be citizens.

Mr. MOORE. Yes. Then the point I am making is whether it would not be better to eliminate that group. I do not say this would coerce them, but assuming it would, do you believe in people becoming citizens at all who do not want to become citizens; but, under the circumstances, would apply to become citizens as a matter of expediency? Do you think it would be well to have those people citizens of the United States?

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Mr. HOCH. My opinion is those people do not care about now many Representatives they have in the Congress of the United States, or votes in the Electoral College.

Mr. MOORE. I agree to that, too; but you do give representation and do give the right to vote to people who may not want to be citizens of the United States.

Mr. HOCH. Of course it is entirely up to the State; the question of suffrage is entirely a matter of State jurisdiction. Now let me conclude with one or two very brief observations. The argument has been made that if you do not count the aliens, you have taxation without representation. Now that is a good old phrase, but let us see whether it applies to this situation. The proposition of representation before taxation means, if it means anything, that those who are taxed shall have something to do with the choosing of their representatives. We complained, in the Revolutionary days, against taxation without representation; but certainly it would not have satisfied us if Great Britain had said, "Oh, no, we are going to give you representation, but we propose to choose the representatives." The proposition of taxation without representation goes just as much to the matter of who chooses the representatives, certainly, as to the fact of representation; and yet no one is here proposing that these aliens shall be permitted to choose their representatives in the House of Representatives, to vote upon elections; in fact, as I have said, every State in the Union has said that they can not vote. And, aside from that, no one is proposing to take away from those aliens lawfully in America the full protection of our laws and all the privileges which they enjoy by virtue of residence in America, with our liberal institutions; no one is proposing to do that and I do not believe the matter of taxation without representation applies at all.

And let me call your attention to this, that we have two Territories in the United States, people also of property and also citizens of the United States, and yet in Alaska and Hawaii, and in the District of Columbia, they have no vote in the popular branch of Congress, and no vote in the Electoral College. And no one seems to be concerned about their lack of representation, and yet here are these people who are citizens of the United States to whom we have not accorded full privileges. I am not saying that by way of objection to the Constitution, but simply calling attention to the fact which exists, and, in the face of that situation, it certainly can not be alleged that, because these people have property and are aliens, they are, therefore, entitled to representation in the American House of Representatives and in the Electoral College. Now this is no new proposition——

Mr. SUMNERS. Before you go into the history of the thing——

Mr. HOCH. I am just about to conclude, but I will be very glad to yield.

Mr. SUMNERS. I wanted to know if you had given consideration to the administrative difficulties. I assume they would not be controlling——

Mr. HOCH. I think there are no administrative difficulties whatever.

Mr. SUMNERS (continuing). But, in taking the Census, you could not tell by looking at a person whether he was an alien.

Mr. HOCH. The Census Bureau now have just as accurate a count, I think, as any other part of the census, of the aliens in each State

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and they have, as I have said, already furnished a table showing the apportionment. There are no administrative difficulties.

Mr. WELLER. Has there been any attempt made to ascertain what is the alien worth in the United States; for instance, what is the property value and personal taxes paid by the alien population of the United States?

Mr. HOCH. I am not prepared to answer that; I do not know what the Census shows.

Mr. WELLER. I do not, either.

Mr. SUMNERS. Just a practical question: Of course our whole system has its element of a lack of uniformity and I assume your proposition is based upon the theory that the reason we have Representatives here is because the people can not come——

Mr. HOCH. That is the Madison doctrine——

Mr. SUMNERS (continuing). And the people who could not come have no right to have Representatives.

Mr. HOCH. The people who could not vote if they got here have no right to have people voting for them.

Mr. SUMNERS. That is, the people vote through their Representatives.

Mr. HOCH. They vote through their Representatives.

Mr. SUMNERS. And nobody should have a Representative who could not go in that capacity if that were the form of Government.

Mr. HOCH. Certainly. And if all of the people of New York were here to legislate, they would not cast the comparative number of votes that they do cast under the present system.

Mr. SUMNERS. I suppose that is all right, too; but now, in the practical operation of the Government, do you think this matter to which you direct attention is in the whole very important?

Mr. HOCH. I certainly think it is of sufficient importance, or I would not be here presenting it.

Mr. SUMNERS. I mean practically?

Mr. HOCH. I think it is of tremendous importance. If you look at just the human side, you may well understand how the people of my own State of Kansas, to whom I go and say to them "I have voted in the American Congress to take one Representative away from you, which I do believing it my duty under the Constitution to do it, and I have always done it in every vote in the House," but it is a matter of very great feeling upon their part if I turn around and say to them "while I have voted to take one Representative away from you, we have an apportionment that gives certain States one, two, three, and four more Representatives, based solely upon the fact that there are resident within that State a large body of aliens." And you can readily understand how to those people in the States, that are disadvantageously affected by the situation, it is a matter of great importance.

Mr. SUMNERS. Upon the basis of the total citizen population, then, you feel you would be taking under this arrangement one Representative away from Kansas, from people who have full citizenship and a right to vote, and giving it to aliens in one of the other States?

Mr. HOCH. I say that—not only a Representative, but a vote in the Electoral College. And it is a fundamental proposition of government that the representation and the vote of the representation should be based upon those who are qualified to be governors in this

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country—participants in the privileges of citizenship—rather upon any other basis.

In conclusion, I say this is no new proposition. There are eight States in this Union which do not count aliens in the districting of their States or in the apportionment, rather, of the members of their State legislatures. The State of New York, for instance——

Mr. HERSEY. How could they then comply with the Constitution?

Mr. HOCH. I am speaking, Judge, of the State constitution, the State legislatures.

The CHAIRMAN. He is referring to regulating the representation in the legislature.

Mr. HERSEY. Oh, in the legislature?

The CHAIRMAN. Yes.

Mr. HOCH. I referred to the State legislature.

Mr. HERSEY. Excuse me.

Mr. HOCH. Each State has the same privilege of apportioning among its people the representatives in the popular branch of its legislature that we have as to Congress. New York, for instance, provides that representatives in the legislature of the State—

> shall be apportioned * * * among the several counties of the State, as nearly as may be, according to the number of their respective inhabitants, excluding aliens.

That is precisely the proposition I have suggested here. And Idaho, Kansas, Maine, Massachusetts, New York, North Carolina, Tennessee and, to a certain extent, California, do not count aliens in the apportionment for their State legislatures. The provision in California is not quite that. I will read the California provision.

The CHAIRMAN. I do not think you need to bother with that.

Mr. HOCH. It is just three lines and I would like to get it in the record. The California provision is that it excludes those "who are not eligible to become citizens of the United States under the naturalization laws of the United States."

The CHAIRMAN. Your proposition is sustained, you know, if you simply state the fact that eight States do not recognize aliens in making their apportionments.

Mr. HOCH. Yes. The word "aliens" is not the word used in every case. For instance, Tennessee goes farther and bases it solely upon qualified voters, which might be narrower than "aliens." But every one of these States goes as far or further than the exclusion of aliens.

I must not take more of the time of the committee. I appreciate your attention very much and I simply say that, in my judgment, this proposition is founded upon a sound consideration of governmental theory and policy and its adoption would be entirely consistent with the whole spirit of the Constitution and the genius of our legislative branch of government.

The CHAIRMAN. I want to say, before Mr. Stalker begins, the committee has allowed Mr. Hoch, as the proponent of this measure, a larger latitude of time in explaining than we can afford to give to each gentleman who may follow. So I would like to have it understood that the speeches will be limited. Now, Mr. Stalker, we will be glad to hear you.

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STATEMENT OF HON. GALE H. STALKER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. STALKER. Mr. Chairman, I would like at this time to insert in the record House Joint Resolution 102, which I introduced in the first session of this Congress, on December 15, 1927. I would also like to insert at this place in the record a part of the constitution of the State of New York, relative to the apportionment of assemblymen:

> The members of the assembly shall be chosen by single districts and they shall be apportioned by the legislature, at the first regular session after the return of the regular enumeration, among the several counties of the State, as nearly as may be, according to the number of their respective inhabitants, excluding aliens.

Now, I shall be very brief, because I desire to give my time to Mr. Anderson, who is here from New York. I wish to state this, however, that what I propose to do is to create an amendment to the Constitution, whereas Mr. Hoch proposes to offer or to create an amendment to the fourteenth amendment. As you know, that amendment is highly controversial, and I believe it is a very hazardous and dangerous piece of legislation. I believe that we might better undertake an amendment to the Constitution to exclude aliens, but I leave that to the good judgment of your committee. I will be glad to give the balance of my time to Mr. Anderson, of New York.

STATEMENT OF WILLIAM H. ANDERSON, NEW YORK, N. Y.

Mr. ANDERSON. Mr. Chairman and members of the committee, I shall be exceedingly brief. Mr. Hoch has covered the general considerations involved. I have been working on this proposition for a great many years. My interest primarily was in behalf of prohibition, although this is a measure that can stand on its own feet. The measure which Mr. Stalker introduced a year ago last December was the measure that, in my judgment, best met the needs of the situation; that is to say, knowing the tactics of the opposition to mess up any kind of a proposition, I foresaw, with almost 30 years' experience in legislative matters outside of legislative bodies, that the opposition might try to give the impression to the general public that we were trying to put over some of the things that we did in the fourteenth amendment and we would have to pass the fourteenth amendment again. And I believe it would be far simpler to have a simple little amendment which is self-contained; that is the reason why that particular form was introduced. Now, I recognize, in case this committee approves the principle that is involved, the committee will decide, in its own judgment, what is the best way of getting at the proposition and I am perfectly content to leave that to the committee; but that is the reason why this form was adopted—the form that was introduced by Mr. Stalker.

Now, as to the origin. If it were a mere question of credit, it would not be worth fooling with at all, but some question was brought up on the floor of the House, by some remarks by Mr. Hoch, attributing this to a source that had not anything to do with the genesis of it; and it is important to fix the origin of it in case there is any attempt to becloud the issue and bring up questions that have nothing to do with it. This proposition raises no questions of creed, race, or

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party; it raises simply the common-sense question of who shall control the policies and ultimately the destiny of this country, the representatives of our own citizens or the representatives of a lot of citizens of a lot of different nations who just happen to be here and get caught by the census enumerator when the census is being taken. That is the only thing involved in it.

I say to you very frankly my interest was the prohibition interest. I was connected with the Anti-Saloon League at the time when I first made this proposal and brought it up in 1921. Now, I have not the slightest idea I am the first person who ever thought of it; I have not the slightest doubt but that a good many men thought of it before I was ever born. But it did originate with me in my own mind and, so far as I know from the record, I am the first person who got it into the Congress of the United States. I say that solely in order to negative any idea there is an ulterior idea behind it, aside from the natural benefit that would flow to the prohibition cause, because most of those Congressmen that would be cut out are opposed to the prohibition policy.

Mr. SUMNERS. Mr. Anderson, might I suggest that this committee would consider the resolution upon its merits, in its legislative and governmental effect, without regard to where it came from.

Mr. HERSEY. Or who would oppose it.

Mr. LAGUARDIA. I wish Mr. Anderson would make his complete statement and give the reasons and the origin of it. I think it is very informative and instructive.

Mr. ANDERSON. I really have made that statement in order to get the record clear, so that no extraneous objection, that had nothing to do with the merits of the proposition, might be brought out. Now, without going further on that, I just want to say a few things.

The CHAIRMAN. What the gentleman from Texas meant was this, I think, that it made no difference whether this cut out dry Representatives or wet Representatives; if the matter itself is meritorious and ought to be adopted as a basis of representation, we ought to vote on it.

Mr. ANDERSON. Yes, sir.

Mr. LAGUARDIA. Yes, but Mr. Anderson argues and states frankly and announces that that was what gave rise in his mind to the necessity for such a change, originally.

The CHAIRMAN. That is already in the record.

Mr. ANDERSON. Yes; I said that was my original interest in it, although it is a proposition that stands fairly and squarely upon its merits; and I brought in that particular interest of mine in order to negative completely and entirely a different sort of thing that has been brought up on the floor of the House. That was my reason—only to make that clear.

Now, respecting New York, according to this suggested apportionment that Mr. Hoch indicated was prepared for him, New York would have four fewer representatives. Of course, there has been an increase in population. As a matter of fact, if we applied the present ratio, which is about 211,000, the last ratio that was used under the last census, of course that is not exact, but that would show about seven representatives from New York State. In other words, with the seven or eight millions that there are of aliens in the country, when there is a new apportionment, taking any ratio that

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would be likely to come, a quarter of a million or something like that, there would be approximately 30 Congressmen that would represent nothing but unnaturalized aliens. So that it is very decidedly a sizeable proposition. Now applying the last used ratio of the last census, it would give 34 representatives in Congress who would represent nothing but unnaturalized aliens; that is, those unnaturalized aliens would have as many members on that basis—it is not quite accurate, but it is the nearest we can get—as for all of the States combined of Arizona, Delaware, Florida, Idaho, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Oregon, Rhode Island, South Dakota, Utah, Vermont, Wyoming and all of Maine except one congressional district. That is 15¾ of the American States, according to their votes; their entire representation in the Lower House. These States ought to demand a population scale that eliminates all de facto representative of these unnaturalized aliens. That is just one example.

Now we have taken the position in pursuing this matter that we were not asking that the apportionment be held up; but, on the other hand, let the apportionment go through on its merits as the Congress sees fit to leave it go through, and, at the same time, push this proposition on its merits so that, in case the States desire to impose this limitation, it may go into effect, should they act promptly enough, to be considered in the next apportionment that is made, assuming the pending apportionment bill goes through. If that is not done, there will then be 10 years more of Congresses where there will be approximately 30 Members that represent nothing but unnaturalized aliens and there will be three presidential elections, 1932, 1936, and 1940, that will be conducted on that basis where the unnaturalized aliens will have the electoral votes—some 30 electoral votes in certain States, a small group of States, where most of them are found.

So that we consider it is a matter that calls for extreme speed and earnestness in the consideration of the merits of the proposition. Now I know the time of the committee is very decidedly limited and, in view of that fact, I think that my cutting this off at this time would be more eloquent than any words I could possibly use.

(The committee thereupon went into executive session, at the conclusion of which an adjournment was taken subject to the call of the chairman.)

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Thursday, February 14, 1929.

The committee, at 11.15 o'clock a. m., proceeded in open hearing, Hon. Leonidas C. Dyer, presiding.

Mr. DYER. Gentlemen, the committee will resume the hearing had yesterday on H. J. Res. 351 and H. Res. 102. Mr. Stephens is here and desires to make a brief statement to the committee touching these resolutions.

STATEMENT OF ROYAL C. STEPHENS, PRESIDENT THE PATRIOTIC CITIZENS CIVIL LEAGUE, PHILADELPHIA, PA.

Mr. STEPHENS. My name is Royal C. Stephens. I am president of the Patriotic Citizens Civic League.

Mr. MICHENER. Where?

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Mr. STEPHENS. Care of 1331 Divinity Place, Philadelphia, Pa.

Mr. MICHENER. Is this a national organization?

Mr. STEPHENS. No, sir. It is the civic league in Philadelphia, but it is interested in national affairs.

Mr. Chairman and members of the committee, I have the honor to be the founder and president of this organization. It is interested in this bill because we are interested in the welfare of the country. Both of these resolutions are practically more or less the same, have the same object in view, and that is to amend the Constitution basing the proportion of the Members of Congress on citizenship, and we are heartily in accord with that.

I had the pleasure of living in other countries for some years and I want to say, gentlemen, I respected the laws of those countries. I saw the acts and the feeling of the people of those countries where they demanded that the people, the foreigners, then living in those countries respected their laws and their customs and rights. We had no chance to mold legislation in those countries and I feel this is right in line and we ought to think along the same way.

I want to call to your attention the necessity of this proposition. I have in my hands here a copy of the bill that was introduced by Senator Salus of Pennsylvania, at the request, long ago, of the foreign groups in Philadelphia, which shows you the attitude that is taken frequently by members of these groups, that come from other countries, desiring that all official business published by the city government in Philadelphia shall be published in all the foreign language press where they are in existence three years. Now I wish to call your attention to this fact, gentlemen, that every year we face that in Pennsylvania. A few years ago it included Italian, German, and Jew with a population of 40. Now they seem to feel—and I am sorry to say that—that we should change our laws to suit them, and this is a matter I feel, in the first place, that America has failed to convince them of the proper duties or respect, or what the Constitution is, or the customs of our country, and that is due largely in a measure to the failure of the Americans themselves to obey or live up to their ideals. However, quite recently you remember we had the sesquicentennial.

I want to call your attention to this thing, that when the proposition was called up regarding the opening of the sesquicentennial on the Sabbath—now regardless of what your opinion may be proper con on that, there is a provision of the State legislation against it—those in charge made this statement, "the foreign groups in the city of Philadelphia who have elected us—those who have the franchise—and their future voters who will follow their wishes, have elected us and we are going to concede to them, and you Americans who do not vote can do as you please,"—which is an illustration of what I desire to talk about that is a factor in the feeling that many of the organized groups of aliens who have come to this country, have taken out citizenship, yet they fail to imbibe the spirit of the customs, the ideals and the principles that were written in the Declaration of Independence.

Now I want to say that it is our opinion that America should take the steps now to amend this Constitution and ought to at this session of Congress, that will make it possible to base it upon citizenship; for these aliens who have come here, they have the same rights that

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our forefathers did to take out citizenship and thereby have a right to vote as our forefathers did, so that they are not denied any right in that respect.

Then I wish to call your attention to the fact the statement was made—a man 24 years in this country, who has not taken out citizenship, said, "I am making my money here and when I have enough I am going back to Italy to live, where I can live cheaper." But that man is active in molding opinion and is a strong committeeman in Philadelphia in electing your public officers, because of the influence and money he may have. I am only showing you some of these features.

Now I call your attention that there will be brought up in Pennsylvania Monday night a resolution petitioning Congress to act at this session so that we in Pennsylvania can ratify this proposed amendment before the legislature adjourns on April 18. And I feel confident of the legislature that they will adopt it in the House Monday night and probably Tuesday in the Senate. However, at the same time, a joint resolution amending the State constitution of Pennsylvania will be called up also, which was introduced Tuesday, this last Tuesday morning, in Harrisburg. I want to say I believe we can not do any greater help or impress upon those who have taken out citizenship papers than the fact we ourselves are convinced we must take this action.

Now there are one or two other thoughts and I will close, that are in a measure dependent upon this, and I have given serious thought to this in the last 15 years in my life's activity in behalf of my fellow men and my country; that is this, that many of our foreign press often, frequently, criticize our customs or our ideals and our laws and many of the adult population of those who do not speak English, or do not care to take it up, or can not learn English, still mold opinion, still impress upon politicians; and I say to you frankly that I heard one Member of Congress say, when he was asked why he voted against the immigration question, that 70 per cent of his constituents were foreign born and future citizens and that he would receive a consideration. So that they are molding opinion and impressing upon the members in our legislative halls their wishes, and they are not Americans and it is a dangerous thing.

I was impressed by the remark of Mr. LaGuardia in regard to the number of children that are born to these people, and I do hope they will be able to imbibe the true spirit of Americanism; but if we permit and continue these foreign papers to carry on and criticize, and they hear these things in their homes, we can not Americanize them—far from it—and it is under the circumstances I feel that is a danger to the welfare of this country. I would like to see and I believe it is a national affair, that these foreign papers be compelled to publish the English version alongside of whatever language it is published in. We will know then they are not criticizing or creating in the minds of those adults who are not able to learn English—we can know they are not encouraging them to violate the laws and customs of this country.

Another thought along that line—I want to call your attention to the thing which I think in citizenship is very important. I look at this when I think that I myself and all others here waited 21 years for a right to vote, and what I want you to look at is this: If we do not instill into the hearts of these men, these aliens who come here,

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the men and women, the true spirit of Americanism, we have not only failed but are permitting them to instill into the hearts of their children and future voters of the country, that will outnumber the American stock, because the American stock don't have large families like they do, and if they don't imbibe the ideals of this country, it will be going like Rome and Greece did. Now that is only a thought along that line that might be considered.

But here is a solution I believe, if carried out, will have a tremendous effect in not only Americanizing them, but making better citizens of them all around the entire world, and making right thinking citizens; that is, if we would place in our schools, public and all others, what they call the Gill system of teaching in the young republics of our schools, based on the golden rule, where all of the children from the garden years up are practicing and putting into effect the election three or four times a year and the duties of every officer—we will make them, when they become citizens 21 years of age, they will know the duties of every one of their respective obligations as citizens and I think it will be a solution in a large measure that will do away with many of these things.

Mr. TUCKER. You do not ask us to pass such a law as that?

Mr. STEPHENS. No; I merely mention that as a solution. I will leave a copy of this Senator Salus's bill with you and I hope, gentlemen, you will see fit to place upon the calendar this amendment so that we can get some action and encourage Pennsylvania, also, in ratifying the Constitution over there.

I want to say I was glad to hear New York has that provision in their constitution and I want to see this provision. There is not a person in this country more interested in the welfare of the aliens who come to this country and here is one, and the organization which I represent treats them as fellow men and we don't stand back trying to get all we can out of them and deceive them, but try to set an example to them that they may be better citizens, and I hope we may instill into them that spirit that they must or should respect our laws. And it is really due to the failure of the Americans and I say with shame that many of our plblic citizens, because of the desire to go into office, will concede to things that they know are wrong to get that office at the expense of the welfare of their country, and I hope to see the day we may have men and women who will stand up and be counted for their principles first and last and fight for the welfare of the American people.

If you have any questions to ask, I will be glad to answer them.

Mr. LAGUARDIA. What did you say the name of your organization is?

Mr. STEPHENS. The Patriotic Citizens' Civic League of Philadelphia.

Mr. LAGUARDIA. Where is the office of this organization?

Mr. STEPHENS. It has no office.

Mr. LAGUARDIA. What is its membership?

Mr. STEPHENS. Its membership is about 50.

Mr. LAGUARDIA. What is your business?

Mr. STEPHENS. My business is to get other people to do things worth while. My life has been devoted to making this country a civic righteous nation—a big job on my hands, I confess.

Mr. LAGUARDIA. What is your source of income?

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Mr. STEPHENS. I have no source of income. I receive contributions from the people who are interested in these things, who contribute. And I want to say this, Mr. LaGuardia, that frequently I am one of those myself who is interested in this cause, that I do not wait and look for the almighty dollar to do this for the cause. That is because of the fact that there are too many forming organizations who think of the almighty dollar first and the cause second.

Mr. LAGUARDIA. Quite right. And all of the arguments stated by you to-day are in support of the amendment now before the committee?

Mr. STEPHENS. Certainly.

Mr. YATES. How many are involved; how many would be involved? Have you any estimate?

Mr. STEPHENS. That I do not know.

Mr. YATES. How many would be affected in Pennsylvania. I understand there are 1,600,000 in New York.

Mr. STEPHENS. I do not know at present how many it would affect in Pennsylvania. Only the Census Bureau would be able to answer that question.

THE GENERAL ASSEMBLY OF PENNSYLVANIA

[File of the senate, No. 51, session of 1929. Introduced by Mr. Salus, January 15, 1929. Referred to Committee on Judiciary General, January 15, 1929]

AN ACT To amend section one of the act approved the nineteenth day of July, one thousand nine hundred and seventeen (Pamphlet Laws one thousand one hundred and twenty-two), entitled "An act providing that every advertisement and notice required by authority of law or rules of court to be published in any county in the Commonwealth or in any city coincident to the boundaries of a county may, in addition to the publication of such advertisements or notices required to be made in newspapers published and printed in the English language, be also published by the public officer, body, or court directed by law or rules of court to publish such advertisement or notice in newspapers printed in the English language in one or more daily newspapers printed in a foreign language or languages; such newspaper printed in a foreign language or languages to be printed in and have general circulation in the county or the city coincident to the boundaries of said county for at least three years continuously before the publication of such advertisements or notices; and further providing for the prices to be charged for publishing such advertisements or notices in any such foreign newspapers, how often the same shall be published, and the stipulation and regulations under which the same shall be published

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met and it is hereby enacted by the authority of the same*, That section one of the act approved the nineteenth day of July, one thousand nine thundred and seventeen (Pamphlet Laws one thousand one hundred and twenty-two), entitled "An act providing that every advertisement and notice required by authority of law or rules of court to be published in any county in the Commonwealth, or in any city coincident to the boundaries of a county may, in addition to the publication of such advertisements or notices required to be made in newspapers published and printed in the English language, be also published by the public officer, body, or court directed by law or rules of court to publish such advertisement or notice in newspapers printed in the English language in one or more daily newspapers printed in a foreign language or languages; such newspapers printed in a foreign language or languages to be printed in and have general circulation in the county or the city coincident to the boundaries of said county for at least three years continuously before the publication of such advertisements or notices; and further providing for the prices to be charged for publishing such advertisements or notices in any such foreign newspapers, how often the same shall be published, and the stipulation and regulations under which the same shall be published" is hereby amended to read as follows:

"SECTION 1. *Be it enacted, etc.*, That hereafter every advertisement and notice required by authority of law or by rules of court to be published in any county of the Commonwealth or in any city thereof whose boundaries are coincident with a county, may, in addition to the publication thereof required to be made in newspapers printed in the English language, be also published by the public officer, body, or court directed by law or rules of court to publish such advertisements or notices in newspapers printed in the English language in one or more

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daily newspapers printed in a foreign language or languages. Such newspaper or newspapers printed in such foreign language or languages to be such as are [printed] *published* in and of general circulation in such county or a city and of general circulation in such county or a city whose boundaries are coincident thereto. That the prices to be charged for such publication of such advertisements or notices in such newspapers published in a foreign langugae or languages shall not exceed the rates charged for such publication in newspapers printed in the English language for the same services when publication is made in such newspaper or newspapers printed in a foreign language or languages, it shall be made as often as that made in newspaper or newspapers printed in the English language and shall be subject to the same stipulations and regulations as those imposed for like services in such newspapers printed in the English language.

Mr. DYER. We will hear now from Mr. Brand and then from Mr. Hudson.

STATEMENT OF HON. CHARLES BRAND, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. BRAND. Mr. Chairman and members of the committee, it may seem to you that there is not a great deal of interest in this subject, because of the few that are here this morning; but I wish to say when I came here, at 11 o'clock, and found "executive session" on your door, there was a representative of the American Farm Bureau there and a representative of the Grange of the United States, and I learned also that a representative of the Daughters of the American Revolution was up here to appear this morning; but they all came to the conclusion that you were not going to reach this hearing this morning, so that they have gone back to their various places of activity.

The evidence already before you shows that there are from 7,000,000 to 8,000,000 aliens in the United States and, when you figure 300,000 for each Representative in Congress, or each electoral vote, you find that there are 26 or 27 Members of Congress representing aliens now in the House, and 26 or 27 votes in the Electoral College representing aliens. It seems to me that is a fair mathematical deduction.

Mr. YATES. You mean that would not be there?

Mr. BRAND. That would not be there if aliens were not counted. And, in making the reapportionment, if we count the aliens, there will be that many representing aliens, really. Now that is a balance of power in the House. All close questions are settled upon a less majority than that and often we elect a President on a less majority than 26 or 27. So that this really is a vital question for this committee to consider.

I know that we approach any constitutional amendment with a good deal of fear and trembling and we hesitate to change a word in that instrument and here is a question that I think will come to this committee in the consideration of this question—whether or not we will gradually absorb the aliens and eventually be without them, and whether this is a temporary matter. Now my study of the question has developed that there are two classes of aliens, those who can not be naturalized on account of the law and those who do not wish to be naturalized. There are a great many millions of aliens in the United States that never can be naturalized, because of their coming in by the smuggling route. They came in without the pale of the law and those aliens can never be naturalized, because they can never be

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in a position to prove that they entered this country legally. Therefore they are here for all times, as long as they live here, as aliens. I saw in a paper recently, it is not very good evidence, perhaps, but it will give some idea of the seriousness of the question—that there is now an organization in this country bootlegging foreigners into this country for so much per head, and this same article also contained a statement that there were more than a million coming in here every year. Now that is a consant supply for these alien inhabitants of the country.

Mr. LaGuardia. Mr. Brand, I think that figure is terribly exaggerated, for this reason: While we have no check up on what may be the bootlegging of aliens across the border, we certainly have a check up on what the ships bring over to Mexico, Cuba, or Canada, and I think, granting they have that leeway, that it would not be possible to smuggle a million aliens a year. I know there is a great deal of smuggling going on, but I mean it can not be anything like a million aliens a year.

Mr. Brand. It seemed to be out of the question to me, but I give you that for what it is worth.

Mr. Hersey. There are two borders, the Canadian border about three thousand miles, as well as the Mexican border. Aliens get into Canada from other countries very easily and then come across the border.

Mr. Brand. I do not know that there is any way absolutely to check up on this.

Mr. LaGuardia. It would take over four hundred steamers to bring a million aliens over, if they had nothing else than aliens, to be smuggled. Even in our biggest days of immigration, when I was at Ellis Island, they were coming with their steamers just full and the total immigration then was just a million. So that I say it can not be anything like that.

Mr. Kurtz. I think Secretary of Labor Davis says it is something in excess of 100,000 a year.

Mr. Brand. That is his opinion.

Mr. Kurtz. Yes; that is my recollection.

Mr. Brand. Now, I wish to address myself next to those who do not wish to become American citizens. I had an illustration that was very clear as to the reason why men live in the United States, come here as immigrants, and do not become citizens. Traveling in Europe I found a great many people, especially in southern Europe, that talk the American language—not English, but the kind of language we talk. When I was in England I could hardly understand the English at times, but these people in southern Europe understood our language. And why? Because they had been over here and accumulated a sufficiency and had gone back, and I want to tell you there are many of them over there; you can find them everywhere. And they do not make any excuse except to say they never intended to give up their own nationality and that they came here for the purpose of accumulation and, when they had reached their ambition, they went back. And I want to say to you that when you are over there you know that you never would live there and give up your nationality. So that it is a natural thing for men to come here and stay a while and then go back.

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So that there two classes of these aliens, those that come in here without coming in legally and must remain aliens, and the other class are those who do not come here intending to be American citizens. And I say to you gentlemen that I do not believe these aliens ever will be absorbed so that there is no question of this kind. We will always have this question and, therefore, I am fully convinced that we ought to act on this question and so arrange the Constitution or the laws, which ever is necessary, so that they will not be counted when we apportion our Representatives in the National Congress.

I thank you.

Mr. DYER. Now, Mr. Hudson, we will hear you.

STATEMENT OF HON. GRANT M. HUDSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. HUDSON. Mr. Chairman and gentlemen of the committee, I had no particular desire to offer any testimony before the committee on this resolution. I listened to the argument given by Representative Hoch yesterday before the committee, which I considered a most excellent argument of the reasons for the enactment of this joint resolution. I can see, personally, the need for it perhaps more than some of you who live in a different State. We are on the border line of perhaps the bootlegging industry of the aliens, unless it would be the Mexican border line. There is not any question but what there is a very systematic, well-organized industry in the matter of smuggling aliens across the Canadian line on the Detroit and St. Claire Rivers, and they are being brought in and then sifted on down into the other sections and cities.

The passage of this resolution it seems to me ought to be at this time, because of the matter of reapportionment that is before us. I believe if we could pass this resolution there would be less opposition to reapportionment on the basis of holding the House at a stated number; that it would reduce the opposition more than anything else that could be done.

I am sure that back in my State, as the gentleman from Ohio has just testified, the Grange, the Farm Bureau, the Women's Federation, the Daughters of the American Revolution, and the other organizations of a patriotic character are more than heartily in favor of this bill. And let me say it seems to me that we are not, by the passage of it, working any injury to anyone. By the adoption of the resolution, we are placing the Federal Constitution and the Federal Government on the same basis that the States have placed their State governments.

I think I have not anything further to say, Mr. Chairman; I just simply wanted to add my own testimony to what I think is the saneness and constructive bearing of this joint resolution upon our American Government.

Mr. HALL. Mr. Hudson, do you favor the Hoch amendment or the Stalker amendment to arrive at the result they both seek to accomplish?

Mr. HUDSON. I would favor the Hoch amendment, I think, largely for this reason: It is not adding another amendment to the Constitution. I think there is a very decided temper over the country that we ought not to add another amendment. Of course, you could

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say, "Well this has the effect of it." But, in a sense, it does not have the effect of submitting an entirely new amendment to the Constitution For that reason I would favor this rather than the other.

Mr. HICKEY. Do you think, if there is favorable action on this Hoch amendment by the committee and later by the Congress, that it would hasten action on the apportionment bill that is pending before the Senate?

Mr. HUDSON. Yes; I think it would. I have not checked up on the Senate on that, of course, in any way, but I am sure there could be no joint resolution before the House which would receive such hearty indorsement over the country as would this resolution.

Mr. HERSEY. You heard Mr. Hoch's testimony, did you?

Mr. HUDSON. Yes; I did.

Mr. HERSEY. And his statement as to the effect upon the next apportionment if this sould become a law?

Mr. HUDSON. Yes.

Mr. HERSEY. Would this affect the delegation from Michigan if this became a law?

Mr. HUDSON. I apprehend it might cut down one. How, this is a rough estimate without any basis for making it, and I do not know that it is wise to make it, but I presume in the district that is represented in the House by the two gentlemen from the city of Detroit—the gentleman from the sixth district and the gentleman from the second district—there may be as high as 300,000 aliens within those districts.

Mr. MICHENER. In the second district?

Mr. HUDSON. No, I say within the four districts—the first, the thirteenth, the second, and the sixth.

Mr. MICHENER. Well a large part of those foreigners would be in your district, would they not?

Mr. HUDSON. No.

Mr. MICHENER. In Hamtramck and that country?

Mr. HUDSON. Hamtramck is a city of 100,000, of course, with an extremely large foreign population. West Detroit, in its Polish section, has another extremely large foreign population.

Mr. MICHENER. That is the thirteenth district?

Mr. HUDSON. And down there and across you will find another large section of foreign population.

Mr. MICHENER. Foreign. They are American citizens?

Mr. HUDSON. No, I think the proportion would hold—not quite as nearly as it would in Hamtramck, but nearly so.

Mr. HERSEY. You mean aliens?

Mr. HUDSON. I mean aliens.

Mr. YATES. Three hundred thousand aliens in a territory comprising four districts?

Mr. HUDSON. What would be known as the metropolitan district of Detroit. Now the city of Flint in the sixth district would probably have more than these other districts, because of the great industrial centers. The city of Flint embraces a great number of aliens in the total population; Lansing not so large. The city of Pontiac has a great number; Pontaic has a great number of Mexicans that have come in there. Of course all of these cities have a large negro population but they are American citizens; they are not aliens.

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Mr. DYER. Thank you very much, Mr. Hudson. Now I understand from Mr. Hoch, the author of one of the resolutions, that there are others who desire to be heard. Mr. Stalker, do you know whether that is a fact or not, that there are others who wish to be heard on these resolutions?

Mr. STALKER. I do not, but if I may just take a minute—in connection with the remarks I made yesterday I said I believed, if this resolution was reported out, that it should be a separate amendment. Now I can mention seven or eight States that will not ratify, in my opinion——

Mr. HERSEY. What do you mean by "separate amendment?"

Mr. STALKER. It should not be attached to the fourteenth amendment.

Mr. MICHENER. The fourteenth amendment, if amended, would be known under a new number and in the print would appear as a new amendment anyway, would it not?

Mr. STALKER. Yes.

Mr. MICHENER. You would have to reenact the amendment as it now exists?

Mr. STALKER. Yes.

Mr. MICHENER. And it would have a new number, just the same?

Mr. STALKER. And there is a question whether there would not be some States in the South that would not be active in reenacting that amendment. Now you take States like Connecticut, New York, Pennsylvania, New Jersey and Illinois, those States, perhaps, would not ratify. So that if you add any additional burdens or connect it up with the fourteenth amendment, which would perhaps cause some of the Southern States to not act upon it, why you would perhaps lose the amendment in my opinion; because I can readily count seven industrial States of the East, including Illinois, that would not ratify it.

That is all I desire to say.

(The committee thereupon adjourned until Monday, February 18, 1929, at 10 o'clock a. m.)

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Monday, February 18, 1929.

The committee met at 10.30 o'clock a. m., Hon. Leonidas C. Dyer presiding.

Mr. DYER. The committee has met for the purpose of hearing any further testimony on House Joint Resolution 351 and House Joint Resolution 102.

Mr. Hoch, do you have any further testimony to offer?

STATEMENT OF HON. HOMER HOCH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS—Resumed

Mr. HOCH. Mr. Chairman and members of the committee, I do not intend to take up any more of the committee's time myself, but a number of Members have advised me that they would like to say a few words in reference to this resolution. Doctor Menges seems to be the only one present this morning. Of course, you know how it is with Members appearing before committees when they have so many

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other matters on hand. I take it that a number of them would like to file brief statements for inclusion in the record.

Mr. DYER. On the subject of these resolutions?

Mr. HOCH. Yes, sir.

Mr. DYER. Without objection, that will be done.

(There was no objection.)

Mr. HOCH. I have a letter here that was sent to me by Mr. Chester H. Gray, representing the American Farm Bureau Federation, which I would like to have the clerk read, or, if you prefer, it might be inserted in the record without reading. He makes a brief argument in support of the proposition contained in the resolution, and he approaches it from a somewhat different angle from the one to which I addressed myself the other day.

Mr. DYER. It may be inserted in the record at this point.

(The letter referred to is as follows:)

WASHINGTON, D. C., *February 16, 1929.*

Hon. HOMER HOCH, M. C.,
House Office Building,
Washington, D. C.

MY DEAR CONGRESSMAN HOCH: Inability to attend the hearings of the House Judiciary Committee next Monday, February 18, at 10.30 a. m., leads me to submit to you briefly the statement of position for the American Farm Bureau Federation, relative to H. J. Res. 351.

The purpose of this resolution fits in precisely with the principles contained in the effort which the American Farm Bureau Federation put forth several years ago when the present immigration act was being formulated. That principle, briefly stated, was and is that the American Government should be an institution composed of American citizens and should not allow forces or disintegration to became imbedded within its structure which ultimately might be expected to lessen its virility.

H. J. Res. 351 advances this principle by adding the words "and aliens" to section 2 of the fourteenth amendment to the Federal statute, so that the entire sentence would read "Representatives shall be apportioned among the several States according to their respective numbers counting the whole number of persons in each State, including Indians not taxed, and "aliens."

The Farm Bureau membership views the entire question of nationality more from social, governmental, and ehtnic aspects than it does from the economic point of view. It might be economically profitable to some farmers to let down the immigration bars and allow foreigners to come in more freely. But to do so would be equivalent to saying that our social structure in America, our governmental methods and practices, and our ethnic characteristics would eventually, if not immediately, be subjected to immense hazards.

The Farm Bureau folks want to keep America for Americans, and if foreigners do come here, as many of them have come in the past, they should become Americans rather than continue to be foreigners in America.

Of course, it is recognized that there must be in all civilized nations a small and numerical percentage of foreigners or aliens scattered among the nationals for various reasons, commercial and otherwise. It does not follow, however, that these foreigners or aliens should be incorporated in the governmental procedures of our Nation. If in the future, as is now the case, these aliens shall continue to be counted in making up our House of Representatives, and if, as now seems probable, our international commercial relations become greater and greater, we may expect a corresponding increase in our alien population. If this alien population does not intend to become naturalized as a part of our nationals, or if it has not taken the initiatory steps to become so naturalized, it is nothing more than a subversion of our representative principles of government that such aliens continue to be counted in determining upon representation in the lower House of Congress.

I trust you will use this letter for the record, or in any way which occurs to you at the hearing of the Judiciary Committee, owing to my inability, as above noted to be present.

Very respectfully,

AMERICAN FARM BUREAU FEDERATION,
CHESTER H. GRAY, *Washington Representative.*

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Mr. HERSEY. Mr. Hoch, if this committee should report this resolution favorably to the House, would you have any expectation of getting it through at this session, or at this short session?

Mr. HOCH. I want to be entirely frank with the committee, and when you say "expectation" all of us know the situation that exists in the House. I think that it is not impossible that it might be considered in the House, but I would not want to make the statement that I am convinced that we would be able to secure consideration for it in the House. Yet, I am not at all sure that we would not be able to secure consideration for it.

Mr. DYER. Of course, these hearings would be available for the use of the Members in the next Congress.

Mr. HOCH. Personally, I should attempt to have the resolution considered at this session, and hope to have it adopted.

Mr. HERSEY. If the House acted upon it favorably, would you expect that it would be ratified by the States before the next census?

Mr. HOCH. I have a very lively expectation that if it were submitted to the States, it would be ratified by three-fourths of them.

Doctor Menges is here, and I would be glad if the committee would hear him now.

STATEMENT OF HON. FRANKLIN MENGES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. MENGES. Mr. Chairman, I am very much in favor of the amendment proposed by Mr. Hoch. It is short, and I believe it could be gotten through the House at this session, and probably through the Senate.

As you know, I am from Pennsylvania, and probably Pennsylvania will have to adopt a definition as to who is an alien. In the early history of our State, we had a little trouble about who were aliens. As you know, during the Revolutionary War and afterward we had Tories, Quakers, Dutch and Irish, and none of them loved each other any too well, and to determine who were aliens among them was somewhat hazardous. Therefore, I believe that probably we would have to define who are aliens. I am not sure about that. My friend, Mr. Kurtz, of the committee, probably knows as much about that as I do. I simply want to say that I feel that in the State of Pennsylvania, we need this kind of legislation, or this constitutional amendment, in order to have our representatives from the State selected and elected by those who are citizens of the State.

Mr. HERSEY. You want to keep your representation 100 per cent pure.

Mr. MENGES. Yes, sir; that is what I am anxious to do.

That is about all I have to offer in the way of a statement, but I will be glad to answer any questions.

Mr. LAGUARDIA. A witness told us the other day, in the course of the hearings, that the Pennsylvania Assembly, or House of Representatives, would pass a resolution indorsing this proposal on Tuesday of last week, and that on Friday the Pennsylvania Senate would adopt it: Have they taken any action on the resolution?

Mr. MENGES. Two resolutions have been introduced; one, as I understand it, favoring Mr. Hoch's amendment, and I think the other favored the constitutional amendment proposed by the gentleman who was speaking here at the last hearing.

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Mr. LaGuardia. Has any action been taken yet?

Mr. Menges. No action has been taken. It was said it might be taken this evening. I doubt very much whether any action will be taken that speedily.

Mr. LaGuardia. The other witness practically assured us that action would be taken.

Mr. Menges. I wish the legislature would take action, but I am not that hopeful. If I may interpose there, the resolution was only introduced last Monday or Tuesday, and it could not have been acted upon before this Tuesday.

Mr. Kurtz. I think the witness meant that it would likely pass Tuesday of this week, instead of Tuesday of last week.

Mr. Menges. I am not that hopeful.

I thank you for your attention.

Mr. Hoch. Mr. Chairman, I would like to inquire what the policy of the committee is with reference to receiving additional brief statements that may be handed to me for inclusion in the record. I have introduced one or two that have been handed to me.

Mr. Dyer. The committee has already authorized the clerk to receive brief statements from Members of the House for the purpose of inserting them in the record. Do you have any other statements from persons other than Members of the House that you would like to submit?

Mr. Hoch. I have a note on my desk this morning from Mr. Brinkman, representing, I believe, the National Grange, saying that he was called out of town when he expected to appear, and that he would like to file a statement in favor of the resolution. If it is satisfactory to the committee for him to do that——

Mr. Hall (interposing). Who was that?

Mr. Hoch. Mr. Brinkman, representing the National Grange.

Mr. Dyer. If there is no objection, Mr. Hoch may submit such statements as he refers to to the clerk so they may be included in the hearings.

Mr. LaGuardia. I have no objection to including the statements he has just referred to. Statements may be received from Members, of course, but as to any other statements that may come in, I suggest that they be presented to the committee for authorization.

Mr. Dyer. They may be presented to the clerk of the committee and he will take them up with the chairman.

Mr. Hersey. Then do we understand that the hearings are closed?

Mr. Dyer. The Chair will be pleased to receive suggestions with reference to that. What is the judgment of the committee?

Mr. Stobbs. Do you understand that the Order of the Patriotic Sons of America, of Pennsylvania, in convention assembled, has adopted resolutions similar to these?

Mr. Hoch. No; I was not aware of that. I will say frankly to the committee that I have made no effort to start any sort of propaganda on this proposition. However, I have realized that it is a matter that might have been taken up by many patriotic organizations. So far as my connection with the matter is concerned, I have chosen to proceed upon the assumption that the committee would pass upon this proposition entirely upon its merits, and, while I know you are always glad to hear from those organizations, I did not desire to promote any propaganda. I am confident that there are many

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organizations in the country which, if the matter were presented to them, would pass resolutions in behalf of the measure.

If I may say a word in conclusion, with reference to the form of this resolution, as I said in my opening statement, I have no personal pride of authorship as to the form it takes. I am rather inclined to think that if a proposition of this sort were to be submitted, the simplest way to do it—whether the most tactical, might be debatable—but the simplest way would be to change the word "persons" to "citizens." I think that would accomplish the whole purpose, and it would be, to my mind, the simplest way to do it.

Mr. MONTAGUE. I offered an amendment in that form some six or eight years ago.

Mr. HOCH. Then, I am confirmed in my opinion that that is a desirable way to do it.

Mr. HERSEY. Then you put upon the census enumerators the responsibility of finding out who are aliens and who are not.

Mr. HOCH. That responsibility is now being carried by the Census Bureau. They would do that regardless of whether we adopt this amendment, or not.

Mr. DOMINICK. That is a part of the information that is collected by the census.

Mr. HOCH. Yes. I think there are no administrative difficulties.

Mr. DYER. Are there any other witnesses who desire to be heard in favor of the resolution?

(There was no response.)

Are there any who wish to be heard in opposition to it?

(There was no response.)

There being no other witnesses, the hearings will be closed.

Mr. LAGUARDIA. I do not think it is fair to state the hearings are closed, if no one appears for or against it. I do not know what notice has been given of these hearings. I think the fair statement would be, is there anybody else who wants to be heard.

Mr. DYER. The Chair is asking if there is anyone who wishes to be heard this morning. What is the pleasure of the committee about closing the hearings?

Mr. KURTZ. I have no desire to prolong it, but this matter has not been long before the committee, and somebody might want to be heard on one side or the other.

Mr. DYER. Is it your motion that the hearings be deferred?

Mr. KURTZ. I have no objection to closing them. So far as I am concerned, I can vote now, but, perhaps, there are some other witnesses who might want to appear.

Mr. DYER. The question is whether it is agreeable to the committee to close the hearings on this resolution.

(The question was taken, and the committee voted to close the hearings.)

Mr. DYER. If any witness should appear, the chairman would surely give them a chance to be heard.

(Thereupon, the committee went into executive session.)

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