

IOWA

Joseph H. Dickens, Diagonal.

KENTUCKY

Lillian G. Hall, Eddyville.

MARYLAND

John M. Reed, jr., Chesapeake City.
Bertha E. Huplet, Germantown.
Alice C. Widmeyer, Hancock.
William K. Lambie, Mount Savage.
Raymond R. Russell, Reisterstown.

MASSACHUSETTS

William F. Searle, Peabody.
William P. Porter, Wenham.

MISSOURI

Archie C. Atterberry, Atlanta.
Archie C. Witt, Gower.
Albert D. Walker, Lathrop.
Fred M. Melnert, O'Fallon.
Laura G. McKay, Troy.

NEBRASKA

Herbert C. Robbins, Wallace.

NORTH CAROLINA

Henry B. Head, Caroleen.
James B. Freeman, Cliffside.
A. Eugene Ward, Lake Junaluska.
Lula G. Harris, Macon.
John M. Joyce, Madison.
Charlie L. Walters, Mayodan.
Vance Thompson, Vineland.

OHIO

Elmore J. Phares, Camden.
George M. Simes, Covington.
Edgar E. Bailey, Eaton.
Frank A. Hawkins, West Farmington.

OKLAHOMA

James W. Evans, Mounds.

TEXAS

Claud A. Howard, Bronson.
Leo Yell, Conroe.
Basil L. Garrett, Frankston.
Adolph H. Firnhaber, Kingsville.
Alice Crow, Kountze.
Taylor F. Davis, Merkel.
James A. Weaver, Panhandle.
Willard A. Maxey, Parks.
Roland B. Paul, Rio Hondo.
Floyd S. Worth, San Benito.

VIRGINIA

Mary F. Cunningham, Fort Meyer.

WASHINGTON

Robert B. Henry, Lakeside.
George F. Thomae, Retsil.

SENATE

MONDAY, April 5, 1926

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

Gracious Father, in the multitude of Thy tender mercies Thou dost accept our praise and thanksgiving. And as we turn our attention to the duties of the day we pray that wisdom may be granted, and that our conceptions of right and duty may be for us determined by the high incentives of a holy purpose. The Lord our God be with us. Remember our loved country and all the varied interests of the institutions of our land. We pray in Jesus Christ's name. Amen.

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

ANNIVERSARY OF DECLARATION OF WAR WITH GERMANY

Mr. MEANS. Mr. President, to-morrow is the ninth anniversary of the declaration of war with Germany. I shall, if permitted the floor, ask the indulgence of the Senate for approximately 30 or 40 minutes, and at the conclusion of my remarks will submit a resolution. I merely desire to give notice that I shall ask the privilege of the floor at the opening of the session to-morrow.

TRANSPORTATION OF COAL TO LAKE PORTS

Mr. SACKETT. Mr. President, I desire to read to the Senate a joint resolution of the Legislature of the State of Kentucky passed recently, as follows:

Resolution declaring it the sense of the General Assembly of the State of Kentucky that unjust and discriminatory freight rates should not be imposed upon shipments of coal from Kentucky mining districts

Whereas there are pending before the Interstate Commerce Commission petitions filed by coal shippers of the Pennsylvania, Ohio, Indiana, and Illinois mining districts seeking to further increase the spread or differences in freight rates to their interest and to the disadvantage and detriment of Kentucky coals; and

Whereas the existing freight rates on coal shipment from the mining districts of Kentucky are already in excess of rates from Pennsylvania, Ohio, Indiana, and Illinois districts and are discriminatory against the shippers of Kentucky coal, and a further increase of said freight rates would place additional unreasonable burdens on the coal industry of this State; and

Whereas approximately 40,000,000 tons of coal are shipped annually from Kentucky, practically all of which is sold in keen competition with the coals from Pennsylvania, Ohio, Indiana, and Illinois, the imposition of higher freight rates or further increase in the spread or differences in said freight rates would largely eliminate Kentucky coal from competition in the markets of the North, Northwest, East, and Northeast: Therefore be it

Resolved by the Senate of Kentucky (the House of Representatives concurring therein). That any further increase of the differentials in freight rates for the transportation of Kentucky coal to the consuming markets would mean economic disaster to the coal industry of Kentucky.

That the suspension of Kentucky mines would be attended by the consequent unemployment of labor both in the mining industry and also railway employees and other industries which will be affected, resulting in undue hardships upon one-fourth of the State's citizenship.

That the coal consumers of the North, Northwest, East, and Northeast would be denied the opportunity to purchase the high-grade coals of Kentucky and would be forced to buy the inferior coals of other districts.

That it is the sense of the general assembly that further to extend or widen the existing differentials would be unfair, unjust, discriminatory and prejudicial to the industries of Kentucky and their employees.

That the General Assembly of Kentucky respectfully represents to the Interstate Commerce Commission that the economic life and public welfare of a great portion of our State has been placed in jeopardy by this apparent effort to exclude Kentucky coals and eliminate their competition in the consuming markets enumerated herein.

Mr. WILLIS. Mr. President, I wish to say a word about the memorial which has just been presented by the Senator from Kentucky. He has a perfect right to present the memorial and read it as he has done. I want to say for myself that inasmuch as the coal case is pending before the Interstate Commerce Commission and is a judicial matter, I have personally thought it was improper to undertake to influence the decision of the commission by a discussion of the question here. Previously the Senator from West Virginia [Mr. NEELY] discussed the matter and we now have this memorial presented. I simply want to say that I may find it necessary, if this policy is pursued, to present the other side of the case.

The fact is that Kentucky and West Virginia have now a tremendous advantage in the rates that are accorded in the hauling of coal to Lake ports. They have a very much better rate per ton-mile than Ohio or Pennsylvania, and as the result of it the coal business in Ohio and Pennsylvania has been practically destroyed; yet these people complain when an effort is made to have the matter adjudicated. I reserve further discussion in the hope that the matter will be passed on by the Interstate Commerce Commission without attempts at outside interference.

Mr. PITTMAN. Mr. President, I wish to call attention to the opinion of Commissioner Eastman of the Interstate Commerce Commission in the recent western rate decision, in which he stated what would happen if the commission assumed the authority to decide which communities should have particular markets; that if in the regulation of rates they went beyond fixing reasonable rates and attempted on the other hand to distribute the markets of the country, a most confusing result would take place. This is happening now and will continue to happen. He said it would bring about a confusion in the country whenever anybody tried to decide which places should have particular markets.

Mr. SACKETT. Mr. President, I wish to reply just for a brief moment to the Senator from Ohio [Mr. WILLIS] with reference to the matter of the coal rates which I have just read from the resolution adopted by the Legislature of the State of Kentucky. The resolution, of course, was a proper matter to be put into the Record, having been adopted by the legislature of the State. It was brought about particularly by the introduction by the Senator from Ohio Saturday last of a telegram relating to his side of the controversy on the same subject. It is not for the purpose of creating any influence that is not perfectly proper but to keep the record straight.

The VICE PRESIDENT. The resolution will be referred to the Committee on Interstate Commerce.

FARM RELIEF LEGISLATION

Mr. BLEASE. Mr. President, I have two articles which I wish to have read at the desk. One of them is a statement by a former Governor of the State of South Carolina who apparently has not been at home for a long time. If he has been, he certainly does not know anything about the condition of the farmers in South Carolina. The other statement is absolutely contradictory, made by another man, but I do not know whether he knows anything about the situation or not. The two statements are so very different that I think it worth while to let the country know what some of the so-called friends of the farmer are doing.

The VICE PRESIDENT. Without objection the clerk will read as requested.

The Chief Clerk read as follows:

[From the Charleston (S. C.) News and Courier, April 3, 1926]

WARNS AGAINST INCREASED COTTON AND POTATO CROPS

WASHINGTON, April 2.—Material improvement in farm conditions over a year ago was reported to-day by Chairman Cooper, of the Federal Farm Labor Board, on the basis of advices from the presidents of the 12 Federal reserve banks. Higher prices for hogs and cattle, Mr. Cooper, said, have offset effects of the corn surplus, and the livestock industry generally was declared very much improved.

Chairman Cooper warned, however, against overproduction this year in cotton and potatoes. Despite previous warnings, he said, land-bank presidents from the South "unanimously indicated that farmers are planning to increase their acreage."

"Each farmer or community is perfectly well aware," he emphasized, "that a 17,000,000-bale crop this year spells calamity for the South and they believe in the need of reducing acreage, but they want the other fellow or other section to do it, so they will reap the benefit."

Early reports on intentions of farmers to plant potatoes indicated overproduction and lower prices. Mr. Cooper said winter-wheat acreage in the Northwest was described as abnormal, with conditions good.

Money for mortgage loans was held plentiful at low interest rates in almost every district.

[From the Baltimore Sun, April 4, 1926]

TARIFF WAR THREAT ISSUED BY FARMERS—WHOLE PROTECTIVE SYSTEM MAY BE ASSAILED IF RELIEF IS NOT GRANTED—CONGRESS IS WARNED—CORN BELT LEADER SAYS AGRICULTURISTS EXPECT PLATFORM PLEDGES TO BE KEPT

WASHINGTON, April 5.—Congress was warned to-day by William Hirth, chairman of the Corn Belt Conference, that farmers are expecting the Republican and Democratic parties to live up to their platform pledges for farm-relief legislation.

Appearing before the Senate Agriculture Committee, he declared that the time has passed when the farmers can be "led around by the nose." He said there must be no side-stepping, and added that if they can not get a bill of real value, they prefer to be sent away empty handed.

SENATOR ROBINSON DEMANDS ACTION

Demand for farm legislation also was made on the Senate floor by Senator ROBINSON, Republican, Indiana, who called on the Senate to establish a definite farm policy at once and adhere to it. It is "unthinkable," he declared, "for the session to end without legislation."

A plan is being considered by some Members of the farm bloc to have a relief bill attached as an amendment to the administration cooperative measure that has passed the House and is pending before the Senate Agriculture Committee. If this is done, it is claimed the amended bill could be sent to conference without going through the House.

MAX START WAR ON TARIFF

Mr. Hirth prefaced his testimony by explaining he was not attempting to threaten Congress, but that millions of farm men and women had taken the party campaign pledges seriously, although some politicians apparently considered them only "political apple sauce."

"I also want to serve notice on the protected East that it had better listen to the farmers' plea for relief before it brings the pillars of its temple tumbling down upon its own head," he continued. "Thus far we have not assailed the Fordney-McCumber Tariff Act, but if we are turned away empty handed again, let them not be surprised if in our desperation we make war upon the whole protective system."

FARM WEALTH HAS SHRUNK

"If these be plain words, then let it be remembered that since the close of the World War the agricultural wealth of the Nation has shrunk \$20,000,000,000 and sheriffs' sales and wrecked banks are constantly increasing in the most productive agricultural sections of the land.

The House Agriculture Committee will resume its hearings Monday.

ECONOMIC GROWTH OF THE SOUTH

Mr. RANSELL. Mr. President, I ask unanimous consent to have printed in the Record a very interesting and instructing article entitled "Economic growth of the South," which was prepared by the senior Senator from Florida [Mr. FLETCHER] and published in the Mining Congress Journal in its issue of last month. I invite the careful attention of all of our colleagues to the article.

The VICE PRESIDENT. Without objection it is so ordered. The article is as follows:

ECONOMIC GROWTH OF THE SOUTH—THE SOUTH STANDS ON THE THRESHOLD OF GREAT INDUSTRIAL DEVELOPMENT—HER VAST RESOURCES OF HIGH-GRADE MINERALS ARE AS YET ALMOST ENTIRELY UNDEVELOPED—WHAT LEADERS IN INDUSTRY PREDICT FOR THE SOUTH OUTLINED

By DUNCAN U. FLETCHER, United States Senator from Florida

In 1909 an altruistic central agency (known as the Southern Commercial Congress), founded on public spirit, was organized for the purpose of serving the South primarily and concurrently the Nation.

It began functioning in February of that year, with headquarters in Washington. Its conception originated in the thought that a union of effort was required, first, to induce a proper understanding by the people of the South regarding the significance of the physical resources of their States and the possibilities in their fruitful use. And, second, to sweep out of the mind of the world elements of misunderstanding regarding the South, its prospects, its people, and its opportunities.

The work undertaken was to change men's minds regarding the South, its improvements, potentialities, and advantages; minds that needed enlightenment, and our method was the reiterated declaration of the truth about the South and existing conditions. Its chief efforts were directed to broadcasting the truth, and its slogan was "A greater Nation through a greater South."

John M. Parker, afterwards Governor of Louisiana, was its first president. In March, 1911, I was chosen to succeed him, and on account of the press of public business was compelled to sever my connection with it in 1918.

It had a great convention in Atlanta, March 8 to 11, 1911, and the proceedings, with the principal addresses, were published in a volume of 1,064 pages, entitled "The South's Physical Recovery."

From a few of these addresses I wish to quote briefly.

William H. Taft, then President of the United States, said:

"An examination shows that proportionately the commercial and business growth of the South is greater than that of any other part of the country. A cotton crop that sells for a billion dollars insures prosperity, and when, in addition to that, you raise a corn crop worth half a billion dollars, and include the tobacco you raise, the product of your iron industry, your cotton manufacturing, and your truck gardening, as well as the naval stores of the Carolinas and Georgia, and the sugar and rice of Louisiana and Texas, the fruits, and the lumber of all the Southern States, one begins to get a conception of the marvelous progress of the South."

Theodore Roosevelt, former President of the United States, said:

"I look to see in the Southern States within the next half century a development unparalleled in any other portion of our great land."

Woodrow Wilson, the next President of the United States, said:

"I have listened to many comments upon this great gathering, and I have heard it spoken of as a symptom of the 'awakening of the South,' but I don't think that the South has been asleep."

James Wilson, then Secretary of Agriculture of the United States, said:

"If the South will produce everything she consumes, when the billions of dollars' worth of cotton that is grown in the South is cashed annually, then all of it will be retained within her border, because she is complete in every respect, and the billion of dollars that comes to her farmers annually means a billion dollars wealth every year."

"The South, with the wealth that must come to it if you follow the economic lines with your characteristic energy, will soon be living in a period of prosperity undreamed of by the preceding age."

"In the older Southern States only about one-sixth of the land is under cultivation. This one-sixth has to carry on all the functions of

civilization and in addition pay taxes on the five-sixths that is unused. You can easily double the production of the one-sixth now used, and it will enable the South to use the other five-sixths to supply and make prosperous twelve times the population she now has, so that for a number of centuries there need be no fear in the Southern States that there will be a lack of land for homes and a lack of soils to produce the food for the people."

Jacob McG. Dickinson, then Attorney General of the United States, said:

"The tremendous and steady strides being made generally in the South for successive decades in education, commerce, manufactures, mines, bank capital, railroads, agriculture, indeed in all that indicates steady progress, demonstrate that the people of the South, taken generally, are peaceable and law-abiding. The increase in taxable property in 20 years has been over \$7,000,000,000."

Joseph M. Brown, Governor of Georgia, said:

"Georgia was the first to establish a State university. The first to apply steam to navigation. This was done by William Longstreet on the Savannah River in 1790. The first to send a steamship across the Atlantic Ocean. The first to codify the English law. The first to discover anesthesia; this having been done by Dr. Crawford W. Long."

David R. Francis, former Governor of Missouri, Secretary of Interior, and later ambassador to Russia, said:

"It is only within the past 30 years that the South has begun to recover from the blight put upon its commercial development. Its progress during that period is wonderful to relate, wonderful because in itself enormous, and more wonderful because it has more than kept pace with the incomparable progress of the entire country."

"The South is not only an area of land permeated by great rivers, traversed by great transportation lines, dotted with flourishing cities, and blessed with great natural resources, it is an idea—an ideal."

Arthur M. Harris, of Harris, Forbes & Co., New York City, said:

"I firmly believe that the material and industrial progress of the South during the next 20 years will equal, if not exceed, that of any other section of the United States. * * *

"From the standpoint of productiveness the cheapest land in the United States to-day is to be found in the South. Agriculture remains the greatest economic interest of southern life, and while there has been a considerable advance in prices during the last few years, there has been little inflation as the result of speculation. The large influx of population from other States and other nations, together with the general movement toward the diversification of crops, will prove powerful factors in maintaining legitimate land values."

"I thoroughly agree with Richard H. Edmonds that: 'No other section of the country equals the South in the aggregate of its natural advantages for agriculture, for manufacture, for mining, and as a place of residence. It has all of the primary elements of attraction for men who wish to gain wealth or make homes. With millions of acres of fertile lands awaiting the plow, with billions of tons of coal, iron ore, phosphate rock, sulphur, and other minerals to be taken from the earth, and with its teeming opportunities for enterprise and energy, the South incites to investment the mind, the muscle, and the money of the world.'"

R. L. McKellar, assistant freight traffic manager of the Southern Railway, in discussing transportation, said:

"(1) The distance from the canal to these South Atlantic and Gulf ports is less than to any other ports in the United States."

"(2) The greatest variety of commodities are produced and consumed in the 16 Southern States."

"(3) The facilities, both rail and water, for transporting these commodities to South Atlantic and Gulf ports are all along the lines of least resistance."

"The 16 Southern States embraced in the Southern Commercial Congress represent 27 per cent of the total area of the United States. These same 16 States are served by 80,000 miles, or practically one-third of the total railway mileage of the United States, and its total population is also approximately one-third that of the United States. Extending from Corpus Christi, Tex., around the Gulf coast to Key West, thence up the Atlantic to Baltimore, a distance of 2,500 miles of coast line, are found 16 well-established ports with safe harbors and a sufficient depth of water to accommodate large ocean-going vessels. At these 16 ports terminate railway mileage aggregating around 80,000 miles, or about one-third of the entire railway mileage of the United States."

"In addition to the 80,000 miles of railway referred to as serving South Atlantic and Gulf ports, there can safely be added 20,000 miles of additional railway mileage in the nature of connecting lines, giving in the aggregate 100,000 miles of railway mileage engaged in transporting products of mines, forest, field, and factory along the lines of least resistance to the ports served by the several carriers comprising this total mileage. In addition to this total railway mileage, the number and mileage of navigable streams in the United States by districts are as follows:

	Number of streams	Navigable length, miles
Tributary to Gulf of Mexico, exclusive of Mississippi River and tributaries.....	53	5,212
Mississippi River and tributaries.....	54	13,912
Tributary to Atlantic Ocean.....	148	5,365
Tributary to Pacific Ocean.....	38	1,606
Flowing into Canada.....	2	315
	295	26,410

"Seventy-five per cent, or something like 22,000 miles, terminates or reaches the ocean at southern ports, and 19,000 miles, or something over two-thirds of the total, terminates at Gulf ports."

"This substantial water mileage, terminating so largely at Gulf ports, exerts both active and potential competitive force, both in the way of affording transportation along the line of least resistance and in the establishment of low rates."

George Westinghouse, inventor and manufacturer, of Pittsburgh, Pa., said:

"In the development and utilization of the energy of waterfalls the South has already taken a leading position, and the industrial benefits thereof are so widely and favorably known that no argument is now needed to justify the work already done or to point out the great and lasting benefits to be derived from its extension. * * *

"The industries most likely to be developed and to increase because of peculiar suitability to conditions now existing in the South are: Textile mills, fertilizer works, cement plants, coal, iron, copper, and gold mining, ore-reduction plants, iron and steel mills, agricultural implements works, canning factories, road building, furniture manufacture, lumber plants, paper mills, shoe and leather factories, and oil refineries, in all of which industries electric power increases production."

Although interesting statements must be omitted, I have given the extracts from addresses delivered at the armory in Atlanta to large audiences over 14 years ago for two reasons: First, they are the expression of the views of some of the ablest and most farseeing men in the country respecting conditions and possibilities in that region called the South, commercially, industrially, and economically, as they saw them in 1911.

Second, they evidence the fact that the misapprehensions and lack of understanding previously existing regarding the opportunities and advantages to be found in the South were being then permanently swept away, and the truth respecting the South was beginning to appear and spread, and that the movement southward had then set in earnestly and in volume, thus showing that the present hegira from all portions of the country and from other lands is not an ephemeral, irrational, temporary affair, based on speculation or a financial debacle, but represents a studied, carefully worked out purpose, founded on actual knowledge of conditions and search for sound investments."

The object in the minds of those moving South is to change their place of abode, make their investment and their homes in this new field, among the sunny-hearted people of this sunny land."

The veritable tidal wave sweeping over Florida, for instance, is found in the realization that the things the coming people want can be found there and nowhere else. This is a permanent, not a temporary, passing state of mind and purpose."

This movement began some 15 years ago and has been growing steadily, while transportation facilities have been improved and extended, good roads have been constructed, hitherto unknown, and attractive regions have been made accessible, and the use of these has contributed to swell the immigration to unprecedented proportions. It can not be checked, and it will last, because there is nothing required by man or beast but what can be furnished and provided in this region under healthy, comfortable, happy conditions, and the population of these 16 Southern States may well be doubled and supported at home."

Florida, with a population of a million and a quarter, can easily take abundant care of five to ten times as many."

Trading in land, speculation, buying for purposes of selling, dealing in property, the prices of which have been ridiculously low heretofore, and the advance of these prices to approaching real values, may well be expected."

But the millions of dollars brought into Florida during recent months were brought there in the main for investment, for development, for constructive enterprises, and for homes."

The present building program, the letting of contracts it will require years to complete, totalling many millions, give evidence of permanent growth rather than the existence of a "bubble" or "boom."

The South was prostrated by the war in 1865. These 16 States began to breathe freely and see clearly in 1876. By 1880 they were permanently planted on firm, mostly new ground. Asking no favors,

but with the courage and self-reliance which always characterized her people, she moved forward in the development of her vast natural resources, in agriculture, commerce, and manufacturing as well. That advance, checked now and then by adverse conditions, followed by a more rapid stride in the next bound, has been a steady climb upward toward the high plane "where shines unobstructed the light of the justice of God."

We have seen by the utterance of eminent authorities that the growth and prosperity of the South is not of some recent origin. Existing conditions prove their predictions were correct. This unfolding, this achievement, has been a continuous process, and the progress experienced rests on permanent foundations.

A few facts may be stated as proofs:

Population has increased from 18,538,340 in 1880 to 37,686,370 in 1923.

Estimated values of property has increased from \$9,177,000,000 in 1880 to \$71,375,367,000 in 1923. The aggregate wealth of the Southern States has multiplied sevenfold since 1880 and fourfold since 1900.

Total bank deposits increased 233 per cent between 1910 and 1923. Total resources of national banks gained 543 per cent. The value of farm products has increased more than 300 per cent in the past 20 years.

In 1880 there were 24,866 miles of railroad in the Southern States. To-day the mileage is 90,325. The value of foreign commerce through southern ports was six times as great in 1923 as in 1880. For the year 1924 Texas led all the States of the Union in exports. Last year 38 per cent of all the country's exports originated in the South. The Southern States are now producing 29 per cent of the Nation's corn; 85 per cent of its tobacco; 17 per cent of its wheat; 83 per cent of its rice; 31 per cent of its fresh vegetables; 50 per cent of the total lumber output, her forests providing annually 15,000,000,000 feet; practically all of the cotton, valued annually at \$1,720,000,000 and being 60 per cent of the entire world production; all of the naval stores, turpentine, and resin; all of the phosphate, Florida alone producing 87 per cent of that. Her output of coal in tons has multiplied twenty-eight times since 1880, being 178,061,001 tons in 1920. Her mining products in 1923 were valued at \$1,127,574,868. In 1880 the South yielded 179,000 barrels of petroleum; in 1923, 365,000,000 barrels, one-third of the world's production. The output of iron ore has been increased sevenfold during that period. Production of sulphur has increased from 3,000 tons in 1900 to 2,000,000 tons in 1923. She produces 80 per cent of the country's china clays, besides abundance of Fuller's earth and numerous lesser clays, together with lime rock, cement, marble, and other building materials.

The last general census of 1919 showed 66,500 manufacturing establishments, with a combined capitalization of \$6,883,000,000. The establishments engaged in manufacture of cotton goods, cotton lace, and cotton small wares in 1919 numbered 1,642, with capital invested in them totaling \$878,029,377.

These statistics might be greatly extended.

Florida alone has a coast line equal to one-seventh of the total mileage of the 19 States bordering on salt water. I would like to dwell on the resources and attractions of this mother of America. There is but one Florida.

The South has always favored education, public and private, and thorough. I have space only to give the figures, which speak for themselves. Public-school expenditures in 1880 amounted to \$12,471,000. In 1923 the sum reached \$315,915,000. The economic development of the South has been most gratifying, but it has just begun.

FOREIGN TRADE FLUCTUATIONS

Mr. RANDELL. Mr. President, I wish to say just a word or two in asking to have printed in the Record a very brief statement issued by the Shipping Board on the 29th of last month. This statement of the Shipping Board reads:

In the second of a series of analyses of foreign trade fluctuations in the fiscal years 1924 and 1925 it is noted by the bureau of research, United States Shipping Board, that every coastal State from Virginia to Texas shows an increased volume of cargo tonnage movement in 1925. This showing is noteworthy in view of the fact that while these Southern States increased their foreign traffic 3,700,000 long tons, an advance of 14 per cent over their 1924 activities, the combined foreign traffic of all other States engaged in that trade declined 2,450,000 long tons, nearly 4 per cent. The 1925 export cargo tonnage of the Southern States was 28.6 per cent greater than the 1924 export total, and this advance was participated in by every one of those States.

In 1924 less than 30 per cent of our foreign commerce passed through ports in the Southern States, but in 1925 these States handled more than 33 per cent of the total.

Senators will note that there was an increase of 3 per cent.

I call especial attention, Mr. President, to the following paragraph:

Louisiana leads all States in volume and percentage of increase in 1925, with a total foreign commerce of more than 10,700,000 tons, an

increase of 28 per cent over the 1924 total, and New Orleans bears the distinction of having made the greatest advance of any individual United States seaport both in cargo tonnage volume and in percentage ratio. New Orleans' 1925 total of 9,400,000 tons is 2,450,000 tons greater than the 1924 total, an increase of 35 per cent.

Think of that, Senators!

Decline in imports of Mexican crude oil reduced the total State increase to 28 per cent, as noted.

This little statement goes on to show that every single Southern State participated in that great increase. I will ask to have the remainder of it printed in the Record as a part of my remarks without reading.

The VICE PRESIDENT. Without objection, it is so ordered. The matter referred to is as follows:

Texas ranks second among the Southern States in total cargo tonnage volume, but owing to the heavy decline in Mexican crude oil import, the total trade of 9,380,000 tons is only 1 per cent above the 1924 total. The deficit in Mexican oil has been supplied from domestic interior and Pacific coast fields, and the Texas 1925 export tonnage, composed largely of oil refineries' products, was one-third greater in 1925 than in 1924. Heavy increases in grain and cotton exports are also noted.

The Virginia total cargo movement of 4,575,000 tons is 18 per cent above the 1924 trade. Elements entering into Virginia's increase were imports of pulp wood, fertilizers, paper, and minerals, which advanced the import total 140,000 tons, and coal shipments increasing the export total 550,000 tons.

Increases in fertilizer imports and exports of lumber, coal, and cotton give Mobile, the only Alabama port engaged in foreign commerce, a total of 1,090,000 tons, an advance of 17 per cent over the 1924 total.

Substantial advances in the foreign trade of North Carolina, South Carolina, Georgia, Florida, and Mississippi are due to increased imports of fertilizers and exports of naval stores, cotton, and lumber.

Mr. OVERMAN. I will ask the Senator from Louisiana whether the names of the States are set forth?

Mr. RANDELL. Yes; all of them are stated from Maryland down to Texas. The Senator's own State of North Carolina, I will say, shows an increase and is mentioned together with the other States.

PETITIONS

Mr. CAPPER presented a petition numerously signed by members of the Woman's Relief Corps of Post No. 176, Grand Army of the Republic, of Pratt, Kans., praying for the passage of legislation granting increased pensions to veterans of the Civil War, their widows, and dependents, which was referred to the Committee on Pensions.

Mr. WILLIS presented a petition of sundry citizens resident at the Soldiers' Home, Erie County, Ohio, praying for the passage of Senate bill 98, granting increased pensions to veterans of the war with Spain, their widows, and dependents, which was referred to the Committee on Pensions.

OHIO RIVER BRIDGE AT OR NEAR GALLIPOLIS, OHIO

Mr. BINGHAM. From the Committee on Commerce I report back favorably with an amendment the bill (S. 3499) granting the consent of Congress to the Gallia County Ohio River Bridge Co. and its successors and assigns to construct a bridge across the Ohio River at or near Gallipolis, Ohio, and I submit a report (No. 533) thereon. I ask unanimous consent for the immediate consideration of the bill. It is in the usual form adopted for bills of this nature.

The VICE PRESIDENT. Is there objection to the request of the Senator from Connecticut?

Mr. ROBINSON of Arkansas. I understand that the bill conforms to the new rule adopted by the Committee on Commerce in relation to bridge bills?

Mr. BINGHAM. The bill conforms to the form as printed the other day embodying the new policy adopted by the Committee on Commerce.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and to insert:

That the consent of Congress is hereby granted to the Gallia County Ohio River Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Ohio River, at a point suitable to the interests of navigation, at or near Gallipolis, Ohio, in the County of Gallia, in the State of Ohio, in accordance with the provisions of the act entitled, "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906, and subject to the conditions and limitations contained in this act. The construction of such bridge shall not be commenced, nor shall any alteration in such bridge be made either before or after

its completion, until plans and specifications for such construction or alteration have been submitted to the Secretary of War and the Chief of Engineers and approved by them as being adequate from the standpoint of the volume and weight of traffic which will pass over it.

Sec. 2. There is hereby conferred upon the said Gallia County Ohio River Bridge Co., its successors and assigns, all such rights and powers to enter upon lands and to acquire, condemn, appropriate, occupy, possess, and use real estate and other property needed for the location, construction, operation, and maintenance of such bridge and its approaches and terminals as are possessed by bridge corporations for bridge purposes in the State in which such real estate and other property are located upon making proper compensation therefor, to be ascertained according to the laws of the State of Ohio; and the proceedings thereof may be the same as in the condemnation and expropriation of property in such State.

Sec. 3. The said Gallia County Ohio River Bridge Co., its successors and assigns, are hereby authorized to fix and charge tolls for transit over such bridge, and the rates so fixed shall be the legal rates until changed by the Secretary of War under the authority contained in such act of March 23, 1906.

Sec. 4. After the date of the completion of such bridge, as determined by the Secretary of War, either the State of Ohio, any political subdivision thereof within which any part of such bridge is located, or two or more of them jointly may at any time acquire and take over all right, title, and interest in such bridge and approaches, and interests in real property necessary therefor, by purchase, or by condemnation in accordance with the law of such State governing the acquisition of private property for public purposes by condemnation. If at any time after the expiration of 20 years after the completion of such bridge it is acquired by condemnation, the amount of damages or compensation to be allowed shall not include good will, going value, or prospective revenues or profits, but shall be limited to the sum of (1) the actual cost of constructing such bridge and approaches, less a reasonable deduction for actual depreciation in respect of such bridge and approaches, (2) the actual cost of acquiring such interests in real property, (3) actual financing and promotion costs (not to exceed 10 per cent of the sum of the cost of construction of such bridge and approaches and the acquisition of such interests in real property), and (4) actual expenditures for necessary improvements.

Sec. 5. The said Gallia County Ohio River Bridge Co., its successors and assigns shall, immediately after the completion of such bridge, file with the Secretary of War a sworn itemized statement showing the actual original cost of constructing such bridge and approaches, including the actual cost of acquiring interests in real property and actual financing and promotion costs. Within three years after the completion of such bridge the Secretary of War shall investigate the actual cost of such bridge, and for such purpose the said Gallia County Ohio River Bridge Co., its successors and assigns shall make available to the Secretary of War all of its records in connection with the financing and construction thereof. The findings of the Secretary of War as to such actual original cost shall be conclusive.

Sec. 6. The right to sell, assign, transfer, and mortgage all of the rights, powers, and privileges conferred by this act is hereby granted to the said Gallia County Ohio River Bridge Co., its successors and assigns, and any corporation to which such rights, powers, and privileges may be sold, assigned, or transferred, or which shall acquire the same by mortgage foreclosure or otherwise, is hereby authorized and empowered to exercise the same as fully as though conferred herein directly upon such corporation.

Sec. 7. The right to alter, amend, or repeal this act is hereby expressly reserved.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

REPORTS OF COMMITTEES

Mr. CAPPER, from the Committee on Claims, to which was referred the bill (S. 2512) to authorize the Comptroller General of the United States to relieve Fred A. Gosnell, former disbursing clerk, Bureau of the Census, and the estate of Richard C. Lappin, former supervisor of the Fourteenth Decennial Census for the Territory of Hawaii and special disbursing agent, in the settlement of certain accounts, reported it without amendment and submitted a report (No. 554) thereon.

Mr. JONES of New Mexico, from the Committee on Public Lands and Surveys, to which was referred the joint resolution (S. J. Res. 46) giving and granting consent to an amendment to the constitution of the State of New Mexico, providing that the moneys derived from the lands heretofore granted or confirmed to that State by Congress may be apportioned to the several objects for which said lands were granted or confirmed, in proportion to the number of acres granted for each object, and to the enactment of such laws and regulations as may be

necessary to carry the same into effect, reported it without amendment and submitted a report (No. 555) thereon.

Mr. MAYFIELD, from the Committee on Interstate Commerce, to which was referred the bill (S. 750) to amend paragraph (18) of section 1 of the interstate commerce act, as amended, reported it with an amendment and submitted a report (No. 556) thereon.

BILLS INTRODUCED

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

By Mr. CUMMINS:

A bill (S. 3840) to provide for the consolidation of carriers by railroad and the unification of railway properties within the United States; to the Committee on Interstate Commerce.

A bill (S. 3841) to provide for the distribution of the Supreme Court Reports and amending section 227 of the Judicial Code; to the Committee on the Judiciary.

By Mr. CAPPER:

A bill (S. 3842) to amend the packers and stockyards act, 1921; to the Committee on Agriculture and Forestry.

A bill (S. 3843) to regulate the practice of osteopathy in the District of Columbia; to the Committee on the District of Columbia.

A bill (S. 3844) to amend an act entitled "An act to create the White House police force, and for other purposes," approved September 14, 1922; to the Committee on the District of Columbia.

By Mr. HOWELL:

A bill (S. 3845) for the relief of Nancy P. Marsh; to the Committee on Claims.

By Mr. HARRIS:

A bill (S. 3846) for the relief of Charlotte P. Munn; to the Committee on Claims.

By Mr. WILLIS:

A bill (S. 3847) to amend and clarify existing laws relating to the powers and duties of the auditor for Porto Rico and the auditor for the Philippine Islands; to the Committee on Territories and Insular Possessions.

A bill (S. 3848) granting an increase of pension to Sarah Rowles (with accompanying papers); to the Committee on Pensions.

By Mr. STANFIELD:

A bill (S. 3849) to repeal section 3466 of the Revised Statutes of the United States; and

A bill (S. 3850) to amend section 3466 of the Revised Statutes of the United States; to the Committee on the Judiciary.

CHANGE OF REFERENCE

On motion of Mr. WALSH, the Committee on Military Affairs was discharged from the further consideration of the bill (S. 866) for the relief of Stella M. Musselman, and it was referred to the Committee on Claims.

HEARINGS BEFORE THE COMMITTEE ON TERRITORIES AND INSULAR POSSESSIONS

Mr. WILLIS submitted the following resolution (S. Res. 192), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on Territories and Insular Possessions, or any subcommittee thereof, be, and hereby is, authorized during the Sixty-ninth Congress to send for persons, books, and papers; to administer oaths; and to employ a stenographer at a cost not exceeding 25 cents per hundred words, to report such hearings as may be had in connection with any subject that may be pending before said committee, the expenses thereof to be paid out of the contingent fund of the Senate; and that the committee, or any subcommittee thereof, may sit during the sessions or recesses of the Senate.

SPECIAL BAIL IN WRIT OF ATTACHMENT CASES

Mr. FRAZIER submitted the following resolution (S. Res. 193), which was referred to the Committee on the Judiciary:

Whereas it has been held by a divided opinion of the Supreme Court of the United States to be constitutional within the meaning of the fifth and fourteenth amendments against taking property without due process of law; that writs of attachment of property should issue on which special bail to the full value of an alleged debt must be furnished by a defendant before he can be heard in court to defend himself against the claim of debt or to prove he does not owe the same, so that he shall be deprived of the attached property without hearing on the merits unless he can furnish the amount of special bail required; and

Whereas such oppressive writs of attachment, without right to be heard unless special bail can be furnished, originated in England hundreds of years ago and were particularly embodied in the so-called "Custom of London" (Bohun, Privileges of London, 286; Sar-

gent on Foreign Attachment, 228; Locke on Foreign Attachment, introd. and page 3; Drake on Attachment, sec. 5); and

Whereas this ancient procedure and custom of making special bail a condition to the right to be heard was transplanted into the laws of the American colonies and subsequently of various States of the Union, but has been repealed or modified by the States of New York, New Jersey, Massachusetts, Illinois, Delaware, and other States as being foreign to the principles of liberty on which the Republic was founded, and has been declared obsolete in England by decision of the House of Lords and has not been attempted to be enforced there for over 40 years (Mayor of London v. London Joint Stock Bank, law reports, 5 C. P. D. 494; House of Lords 6, Appeal Cases, 393; 20 Halsbury's Laws of England, 286); and

Whereas this writ of foreign attachment existed in oppressive form in the statutes of the State of Delaware in 1915 and was used in the courts of that State to attach property of a citizen of Colorado, in which case the plaintiffs, merely alleging a debt "in a sum exceeding \$50," demanded of him \$200,000 special bail before he should be heard to disprove the alleged debt, so that being unable to furnish \$200,000 special bail, judgment was entered against him "by default," though physically present in court with his attorneys demanding opportunity to prove no debt was owing, and when he arose to protest was ejected from the court room by a bailiff at the direction of the court, by which oppressive procedure he was deprived of the attached property, conservatively valued at over \$1,000,000 (John Pierpont Morgan, William P. Hamilton, Herbert L. Satterlee, and Lewis C. Ledyard, Executors of the Estate of John Pierpont Morgan, Deceased, v. James A. Ownbey, in the superior court of the State of Delaware, in and for Newcastle County, January term, 1916, No. 46); and

Whereas on account of this proceeding the Legislature of Delaware not only thereafter, on March 23, 1917, amended this portion of its statutes so as to permit a hearing without special bail, but attempted to make the amendment retroactive to cover this specific litigation (R. C. sec. 4145); and

Whereas the Senate of the State of Colorado adopted a resolution of protest characterizing this treatment of one of its citizens as "unjust, criminal, and outrageous"; and

Whereas the Supreme Court of the United States in this case (No. 99, October term, 1920) sustained the constitutionality of the Delaware statute, though a minority of the court dissented, including Chief Justice White; and

Whereas it is alleged that certain unrepealed Federal statutes recognize and provide for attachments requiring defendants to appear by special bail in suits for recovery of duties or pecuniary penalties in States where imprisonment for debt is allowed and in suits removed to Federal courts from courts of States in which defendants are required to appear by special bail (U. S. Rev. Stat., secs. 942 to 947; U. S. Stat., vol. 1, p. 79, vol. 5, p. 498); and

Whereas it is alleged that in the statutes provided for the District of Columbia there exists an unrepealed provision in attachment that the defendant shall not be held to special bail unless the claim exceeds \$50 (U. S. Stat., vol. 5, p. 678); and

Whereas it is alleged that the requirement of special bail in attachment still remains throughout admiralty courts and exists unrepealed in the statutes of Connecticut, Tennessee, and other States—a relic of the same period and of the same oppressive character as the abandoned and discredited practice of imprisonment for debt; and

Whereas the existence of this legal procedure, wherever unrepealed, apparently constitutes a menace to the citizens of all the States of the Union, whose property may be subjected by unscrupulous persons to foreign writs of attachment sued out in the courts where the procedure exists: Therefore be it

Resolved, That the Judiciary Committee, or any subcommittee thereof, be, and it is hereby, authorized and directed to investigate forthwith all questions of fact and law related to the subject matter of the preamble of this resolution, including an investigation of the principal suits in which statutes of foreign attachment requiring special bail before hearing have been used, with special reference to the case of John Pierpont Morgan, William P. Hamilton, Herbert L. Satterlee, and Lewis C. Ledyard, Executors of the Estate of John Pierpont Morgan, Deceased, v. James A. Ownbey, in the Superior Court of the State of Delaware, in and for Newcastle County, January term, 1916, No. 46, and the appeals by Ownbey from the decision of this court to the Supreme Court of Delaware and to the United States Supreme Court, together with the allied cases involving these litigants and the Wooten Land & Fuel Co. in the United States District Court for Colorado and appeals therein, with special reference, barring technicalities, to any practical and fundamental injustices worked thereby, and including an examination of whether or not, in the opinion of the committee, the use of this procedure in the forms in which it now exists in this country is a menace to the rights of citizens and especially adapted to purposes of conspiracy and fraud by unscrupulous persons, particularly in view of its having been held constitutional by the Supreme Court of the United States;

That the committee's report, in addition to its findings of fact and law, shall include its recommendations as to any appropriate action which, in its opinion, may be taken in the premises by the Congress in view of the existence of any Federal statutes recognizing this procedure or of the existence or future adoption of such statutes in the diverse States and as to any remedies which may be exercised by private litigants defrauded through the process of such statutes;

That for the purposes of this investigation the committee is authorized to hold hearings in Washington, D. C., or in any place where, in its opinion, testimony should properly be taken, to sit during the sessions of the Senate and recesses thereof, to administer oaths, to employ a stenographer at not to exceed \$1.25 per printed page, to have access through any member or members of the committee or through its agents to any books and papers which it deems pertinent to the purposes of this resolution, with right to take copies, such access to be immediate upon the presentation of a written demand signed by the chairman or any member of the committee, to require the attendance of witnesses and the production of books and papers upon the subpoena of the chairman or of any member of the committee; and the committee is further authorized to incur such necessary expenses as may be required for the conduct of the investigation, including the employment of counsel and necessary assistants and the lawful fees for securing transcripts of necessary court records, said expense to be paid out of the contingent fund of the Senate upon vouchers duly signed by the chairman.

THE GENEVA CONFERENCE

Mr. DILL. Mr. President, I ask unanimous consent to have inserted in the RECORD an article from the Advocate of Peace for April, 1926, entitled "The lesson of Geneva."

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

THE LESSON OF GENEVA

The simple lesson of the recent breakdown of the League of Nations over the election of permanent members of the council is that that organization should revise its covenant and reorganize the league as primarily a European agency. It is fair to presume, after its humiliating defeat by a South American state, that Europe, the land of culture and diplomacy, must feel the necessity of such a modification of the league. The Locarno treaties are evidence that Europe, while not a political unity, is made up of states geographically so situated that they have interests peculiar to themselves, problems of their own, and statesmen adequate to the business.

The failure to elect Germany to a permanent seat in the council of the league was not a fiasco; it was a tragedy. The scramble for seats in that body is a perfect illustration not of good will, but of selfish greed. Incidentally it shows the council as a haven sought for wildly by the wirepullers. The two hopeful things in the debacle, aside from generous gestures by Sweden and Czechoslovakia, were the acceptance of Viscount Ishii's proposal to appoint a commission to study the composition of the league council and the plan to examine the covenant once more with the view to its revision.

It is inevitable that the probe will have to go into the very structure of the covenant itself, for it is now clear to all that for major concerns the covenant of the League of Nations is quite as wrong in principle as it is unworkable. If there had been a league of nations such as this in 1845 there would have been no Italian unity; if in 1500, there would have been no British Empire; if in 1776, there would have been no United States of America. The covenant of the League of Nations is an unworkable instrument. The League of Nations, under the terms of the covenant, is the executive committee of the treaty of Versailles. Its impotence was illustrated by the framing of the Dawes plan and by the conference at Locarno. As an Italian senator has said, the League of Nations "is only a rhetorical epilogue masquerading as a Messianic prologue." It is time to speak plainly. The covenant of the League of Nations is a failure. If the league is to survive, and it ought to survive, its constitution must be radically changed.

This view springs from no spirit of "selfish nationalism," certainly from no desire to place a stumblingblock in the way of any promising efforts in behalf of international peace. It must be apparent to all at last, however, that any plan for the control of the world by a few great powers is as chimerical as it is impracticable. If the friends of the league do not accept this fact and go about the business of revising the covenant, and that fundamentally, the league will perish. Since the covenant set up in Paris has failed largely because it represented extravagant flights of the imagination, it seems reasonable to begin over again in terms of a league not for the world, but for Europe. If it can be found workable for Europe, it might then be extended to larger areas, but the time for that evidently has not yet arrived.

We do not know how far the recent breakdown was due to a breach of faith. We do know that Mr. Austen Chamberlain and Mr. Briand watched Germany initial the Locarno pact under false pretenses, for

Mr. Chamberlain has confessed that neither of them saw fit to tell Germany of the plans to grant Poland, and possibly Spain and Brazil, permanent seats in the council of the league.

It is not a happy picture. The whole theory of five permanent and four temporary seats in the council was a direct product of war psychology. At the Paris Peace Conference the big powers were on top, and they proposed to remain there. They served notice to that effect. Manifestly, the peace of the world, based upon law and justice, can not be spelled in such terms.

True, the original ferocity has abated somewhat. To-day the league council has 10 members—France, Great Britain, Italy, Japan, the four permanent ones; Belgium, Brazil, Czechoslovakia, Spain, Sweden, and Uruguay the nonpermanent members "selected by the assembly from time to time at its discretion." The tendency has been to limit the powers of the council and to increase the prerogatives of the assembly, formerly looked upon as a mere debating society. Judged, however, by the scramble for permanent seats on the council by Poland, Spain, and Brazil, the council is still looked upon with covetous eyes. We have not heard that any one of the big powers has thought of stepping aside, offering its seat to one of the smaller. Such things evidently are not done.

The disclosure of the self-seeking spirit behind the member states leaves a most unfavorable impression in the United States. This already finds expression in a renewed antagonism to our joining the World Court. One Senator, immediately after the adjournment of the league, was quick to ask: "What American citizen regrets the fact that our country is not involved in this web of intrigue, the fruits of which are selfishness, avarice, hate, ambition, and aggrandizement? Who is there who regrets the fact that as this miserable exhibition of trickery, fraud, sham, and shame has been played out the United States has occupied a dignified and clean position, outside and beyond the artifices, the fraud, the enjoleries, the flatteries, the falsehoods, the false pretenses of this once glorified body, proclaimed as the child of Christian civilization and as presided over by the spirit of Jesus Christ?"

But it is not necessary to end on a note of despair. The situation is not hopeless. All friends of the league are not silly and selfish. The thoughtful ones will make use of this failure to the advantage of the league. Our own view is that they will try increasingly to make it first an agency for the benefit of Europe.

Our further view is that they will try to make it a different kind of an agency; by which we mean that they will change the covenant in radical ways, fitting it to an agency which they have found beneficial, namely an organization for the promotion of international cooperation. A covenant for such an organization could be written in a single paragraph and in the interest of international association for the promotion of a genuine and acceptable peace. If after trial it be found of service to Europe, it might gradually be seen to be acceptable even to the United States. Surely that is a consummation devoutly to be wished.

AMENDMENT OF THE PROHIBITION LAW

Mr. BAYARD. Mr. President, I ask unanimous consent to have printed in the Record a statement made to-day by the junior Senator from Maryland [Mr. Bacon] before the subcommittee of the Committee on the Judiciary of the Senate on the joint resolution (S. J. Res. 85) proposing an amendment of the eighteenth amendment to the Federal Constitution relating to intoxicating liquors.

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

Senator BRUCE addressed the subcommittee, as follows:

Mr. Chairman and Gentlemen of the Subcommittee:

Regot by the abuses of the old saloon, and hastened to maturity by the economic necessities and uncalculating enthusiasm of the World War, and by the lavish use of money and political threats by the Anti-Saloon League, national prohibition went into legal effect upwards of six years ago, but it can be truly said that, except to a highly qualified extent, it has never gone into practical effect at all. The appetite for drink, which has been one of the primal impulses of the great mass of human beings ever since Jesus at Cana manifested forth His glory, to use the words of St. John, by converting the water in six water pots into wine, has, in its struggle with the vast repressive agencies set in motion by the eighteenth amendment and the Volstead Act, furnished another illustration of the truth, which neither moralist nor statesman should ever forget, even in his most fervid moments of disinterested or generous feeling, that man is a creature who can be regulated and bettered but can not be made over. Once, during the agitation for the abolition of human slavery, Henry Brougham decried what he termed "the wild and guilty fantasy that man can hold property in man." As wild and guilty is the fantasy that even the power of the Federal Government can totally divest man of his warm garment of animal sensations, desires, and appetites. Ever since the eighteenth amendment and the Volstead Act became parts of the legislation of our land the human instinct of personal liberty, guided

by a correct sense of the limits within which natural law can be controlled by municipal ordinances, has maintained an unbroken resistance to them; and nothing can be more unwarranted than the statement often heard that this resistance is limited to a single self-indulgent social class. It is not kept up more stoutly by what the prohibitionists, vainly seeking to excite social disaffection and jealousy, call the smart social set, than it is by the members of the American Federation of Labor. It is not limited to any social class or sect. It has brought about close working relations between the bootlegger and thousands of the most intelligent and virtuous members of American society who feel no more compunction about violating the Volstead Act than the Free-solier did about violating the fugitive slave law, or the southern white did about nullifying ignorant negro suffrage; the Federal Constitution in each instance to the contrary notwithstanding. And the evermounting record of arrests for drunkenness in all of our American cities since the enactment of the Volstead Act indicates only too significantly that the humbler and less fortunate members of society have their illicit purveyors of drink, too. The recent utterances of Jewish rabbis, Protestant bishops and ministers, and of Catholic prelates like Cardinals O'Connell and Hayes, demonstrate the existence of a growing feeling, even among the American clergy, that absolute prohibition is not the ally but the enemy of human morality.

Gen. Lincoln C. Andrews, the head of the Prohibition Unit, said what can not be gainsaid when he declared last year that the bootleg industry is coextensive with our entire national territory.

From the extent to which prohibition monopolizes private conversation everywhere in the United States without or within doors, from the amount of space that is given to its merits and demerits in the editorial, reportorial, and news columns of our newspapers, and from the innumerable polls that are now being taken for the purpose of testing public opinion with respect to it, one might well imagine, at the present time, that the eighteenth amendment and the Volstead Act, instead of having been technically in force for more than six years, had never passed beyond the ordinary stages of popular agitation.

The explanation of this state of things is to be found, of course, in the fact that prohibition in the United States, under the provisions of that amendment and that act, has proved a disastrous, tragic failure, and aside from precipitating the end of the old saloon, which would have gone in time anyhow, with the steady increase of temperance that was under way when the eighteenth amendment was adopted, has had no effect, on the whole, except that of blighting human happiness, debasing human morals, and discrediting human laws. Once there was a time when it was commonly said that whether the States or their cities failed to enforce their penal laws or ordinances or not, the Federal Government never failed to enforce its penal laws; and that was true; but it is true no longer, for the fact has been established by irrefragable proofs that during the last six years the Federal Government, effective as may be the ordinary course of its judicial procedure, is powerless to enforce a statute, or even a constitutional provision that attempts to make something criminal at all times and places and under all circumstances, that is not essentially criminal per se and therefore has no true moral sanction back of it.

The vast majority of people in the United States can use spirits, wine, or beer without the slightest injury either to themselves or to others; indeed, with nothing but a perfectly legitimate enhancement of the joy of agreeable and rational living, and to say that even as to them drink must be totally abolished, no matter how carefully safeguarded by proper municipal regulations, is about as just and sensible as it would be to say that motor cars are no longer to be used for pleasure purposes because they are often made the instruments of lewdness, robbery, or murder, or that we are no longer to warm our hands before a cheerful fire in a fireplace, because it might escape from its confinement and work untold havoc and ruin.

Like cancer, which in its last stages seems actually to thrive upon the knife, violations of the Volstead Act may almost be said to have thriven upon the enforcement of that act. During the first 12 months after it took effect it looked as if it might work. The general disposition of every respectable man to obey law and the time that necessarily had to elapse before the opponents of national prohibition could recover from the dejection of defeat, the arts of home distillation and fermentation could be acquired and the establishment of a vast trans- and cis-Atlantic organization for the illicit distribution of drink could be perfected, all conspired to produce that result, but in an incredibly short period an entire underworld for the manufacture, sale, and distribution of drink was called into being, and with the patronage of the inextinguishable human want that it was created to serve has baffled every effort to subdue it. This fact can be convincingly illustrated by just a few figures:

Arrests for violations of the national prohibition act made by Federal prohibition officers since the effective date of that act

January 17 to June 30, 1920	10,548
1921	34,175
1922	42,223
1923	66,936
1924	68,161
1925	62,747

Convictions under the national prohibition act in the Federal courts

July 1 to Dec. 31, 1920.....	4, 815
1921.....	17, 902
1922.....	22, 749
1923.....	84, 009
1924.....	87, 181
1925.....	38, 498
July 1 to Dec. 31, 1925 (at the rate of 42,548 for a full year).....	21, 274

The above summaries, it will be observed, do not include arrests and convictions by State authority for prohibition offenses.

Seizures of illicit distilleries, stills, still worms, and fermenters

1920 (stills only).....	14, 237
1921.....	95, 933
1922.....	111, 155
1923.....	158, 132
1924.....	159, 176
1925.....	172, 537

It may be added that 70 per cent of these illicit plants and agencies were seized in the conventionally dry States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia.

Commitments to Federal penitentiaries and State institutions for care of Federal prisoners

Violations of the Volstead Act:

1923.....	97
1924.....	105
1925.....	773

This table does not include the great number of convicts committed to local prisons for short periods.

In his report for 1925 the Attorney General states that out of 8,039 civil cases begun in the district courts of the United States 7,271, or 90.4 per cent, were brought under the Volstead Act, and that of the 58,128 criminal cases begun in those courts 50,743, or 87.2 per cent, were brought under that act.

What the burden of enforcing the Volstead Act since its enactment has been to the Federal district courts may be inferred from certain letters written by the judges of some of those courts to Senator MCKELLAR, of Tennessee, during March of the present year and published in the CONGRESSIONAL RECORD of March 13, 1926.

In one of these letters the Hon. George W. McChittic, the Federal judge for the southern district of West Virginia, says that during his four years and a half of service he had had before him about 8,000 persons charged with crime, of which about 80 per cent were for liquor violations.

In another letter the Hon. C. M. Hicks, the Federal judge for the eastern district of Tennessee, states that about 90 per cent of the criminal cases that he had handled since his appointment in March, 1923, were prohibition cases.

In another letter the Hon. Morris A. Soper, the Federal judge for the district of Maryland, states that in his district at least one-half the time of one judge could be continuously employed in the trial of liquor cases, and that a bill was then pending in Congress authorizing the appointment of 10 additional district judges, one of whom would be appointed for the district of Maryland. The district of Maryland is justly entitled to this judge, for while only 409 persons were convicted of violations of the Volstead Act in Maryland in 1922, in the year ending June 30, 1925, the number was 1,065.

In another letter the Hon. John B. Sanborn, the Federal judge for the district of Minnesota, says that, in his opinion, if they had to try in his court all of the violators of the national prohibition act who were apprehended in the cities of Minneapolis, St. Paul, and Duluth, as well as in the country districts, they would have to go out of business as a civil court altogether and devote themselves entirely to that work.

On February 15, 1925, Judge John F. McGee, a Federal judge for the district of Minnesota, committed suicide, leaving a statement on his desk which read as follows: "The fact is that the United States district court has become a police court for the trial of whisky and narcotic cases which the State courts should look after. These cases occupy 80 per cent of the court's time and are exciting and trying on the nerves, with the end not in sight. I started in March, 1923, to rush that branch of litigation and thought I would end it, but it has ended me."

Before the enactment of the Lever Act on August 10, 1917, which forbade the manufacture of whisky for beverage purposes, the entire number of licensed distilleries in the United States was 507, and during the fiscal year ended June 30, 1919, the last year when the production of beer for such purposes was permitted, the entire number of breweries in operation was 669. Under prohibition conditions there were practically no illicit plants except in certain secluded communities. During the fiscal year ended June 30, 1925, as we have seen, 172,537 illicit distilleries, stills, still worms, and fermenters were seized by the National Prohibition Unit, to say nothing of the vast amount of subsidiary property which was seized with them.

The same story of irrepressible law violation is disclosed by the record of arrests for drunkenness in the leading cities of the United States since the enactment of the Volstead Act. On the whole, the

trend of these arrests has been steadily upward, with only such fluctuations as have been produced now and then by spasms of law enforcement, inspired by especially aggravated conditions. This will be shown by the following table:

Arrests for drunkenness in some of the leading cities of the United States

	1920	1921	1922	1923	1924	1925
Boston.....	21, 800	30, 987	37, 643	38, 988	39, 536	27, 944
Providence.....	2, 667	3, 779	4, 330	5, 127	4, 819	4, 192
New York.....	5, 936	6, 237	8, 578	10, 643	13, 980	12, 017
Buffalo.....	7, 421	8, 347	8, 655	12, 181	11, 135	10, 174
Newark.....	1, 310	1, 252	1, 198	2, 541	2, 477	2, 615
Philadelphia.....	14, 313	21, 850	36, 299	45, 228	55, 766	58, 617
Pittsburgh.....	9, 577	10, 371	16, 554	24, 651	25, 401	28, 069
Wilmington, Del.....	295	498	577	797	1, 003	1, 011
Baltimore.....	1, 785	3, 258	4, 955	6, 235	6, 029	5, 687
Washington.....	5, 415	6, 375	8, 368	8, 128	10, 354	11, 160
Richmond.....	1, 563	1, 953	2, 752	2, 950	2, 826	2, 596
Wilmington, N. C.....	145	191	179	223	203	220
Charleston, S. C.....	508	512	584	592	732	775
Jacksonville.....	811	905	1, 543	2, 348	2, 251	2, 960
Atlanta.....	4, 199	4, 491	6, 555	7, 003	7, 973	7, 657
Birmingham.....	927	1, 118	3, 000	3, 652	3, 972	4, 962
Vicksburg.....	42	63	106	137	105	321
New Orleans.....	2, 399	7, 079	12, 511	10, 173	12, 788	14, 171
Galveston.....	241	694	905	1, 106	1, 391	1, 259
Little Rock.....	511	853	819	644	771	695
St. Louis.....	1, 861	693	1, 930	2, 376	2, 551	5, 092
Louisville.....	1, 016	2, 495	2, 018	3, 812	4, 748	5, 223
Knoxville.....			2, 753		4, 456	3, 862
Cleveland.....	2, 991	5, 156	16, 817	18, 814	19, 271	23, 393
Cincinnati.....	395	603	712	1, 118	1, 895	2, 279
Chicago.....	32, 352	49, 762	64, 853	75, 500	86, 072	92, 888
Detroit.....	6, 599	7, 220	10, 098	11, 947	13, 717	15, 124
Minneapolis.....	2, 363	5, 243	7, 268	7, 289	7, 676	7, 435
Milwaukee.....	516	754	2, 614	3, 789		6, 056
Omaha.....	2, 640	3, 821	5, 242	4, 817	4, 480	5, 142
Des Moines.....	1, 364	1, 949	3, 533	4, 489	3, 632	2, 395
Seattle.....	5, 753	5, 797	7, 066	7, 974	6, 755	6, 377
Portland.....	2, 436	2, 904	3, 761	3, 099	3, 922	3, 613
Los Angeles.....	3, 357	6, 559	9, 910	12, 839	10, 650	11, 290
San Francisco.....	1, 814	3, 847	7, 261	7, 738	7, 953	8, 069
Salt Lake City.....	659	658	758	868	919	1, 066

¹ Merged in disorderly conduct cases.

In not a few of the 32 cities, north, south, east, and west, that I have tabulated, the number of arrests for drunkenness last year were even in excess of the number of arrests for drunkenness in 1916, before the enactment of the Lever Act, the first Federal prohibitory act.

The claim has been made that this record of arrests for drunkenness is misleading, because, since the enactment of the Volstead Act, police officers are quicker to arrest persons under the influence of liquor than they were before that time. This is certainly not so in Baltimore, the city with which I am most familiar, because the standing instructions of our police commissioner as to the degree of intoxication that justifies arrest are the same as those that obtained before the passage of the Volstead Act, and there is every reason besides to believe that Baltimore city policemen share the hostility to prohibition which is entertained by the great majority of the people of Baltimore. Even if different conditions exist in other cities, it should be borne in mind that, at the present time, drunkenness is not so visible to the policeman, however alert to arrest, as it was when drunk addicts did not get drunk on bootleg liquor or home brew in the home, but on liquor bought at the corner saloon.

Even if arrests for drunkenness were not so numerous in our cities and towns generally in 1925 as they were in 1916, surely that fact is one which should not afford the prohibitionist any considerable degree of satisfaction. Puerile, indeed, not to say despicable, would be the power of the Federal Government if in its war upon the human desire for drink it had exerted no contracting force whatever. It may be that the volume of liquor drunk in the United States at the present time is not so great as it was before the enactment of the Volstead Act; if, for no other reason, because marketed liquor of all sorts comes much higher now than it did before that time; but the contrary view has been urged with not a little plausibility, to say the least. Nor am I prepared to say that if the people of the United States were to experience a fresh accession of fatuity, the Federal Government might not by using its Army and Navy in police work, and by spending a hundred or so millions of dollars, wipe out the bootlegger as the Inquisition wiped out the Protestant in Spain to the infinite material and moral loss of that country; but there is no reason to believe that the Federal Government would ever be willing to stretch its power to such lengths.

Some time ago, Mr. Emory R. Buckner, the United States district attorney for the southern district of New York, expressed the opinion that prohibition might be enforced in the State of New York by the Federal Government with the expenditure of \$15,000,000 a year and the aid of 1,500 enforcement agents; but from the catechism to which he has just subjected himself I find that he is now of the opinion that the Federal Government can not be induced to take the necessary steps

to secure Federal enforcement of prohibition in the State of New York and that the State of New York itself is apparently unwilling to undertake the task. Indeed a bill providing for State enforcement has just been defeated at Albany. Like a sensible man, therefore, he has reached the conclusion that under existing conditions Congress should modify the Volstead Act so as to permit each State to define what shall be deemed nonintoxicating liquor.

One thing is certain, and that is that even were the bootleggers entirely exterminated that would simply stimulate to an unprecedented degree home distilling and wine making. The still and the fermenter would become as common in the home as the spinning wheel once was. Anyone who is not a hopeless dolt can, in a brief time, learn how to make palatable liquor; and it is no unknown thing for even inmates in our prisons to be discovered secretly making intoxicating beverages with the simplest mechanical and vegetable means.

A few days ago General Andrews said that his program was, first, to dry up the alcohol diversion leaks; second, to control the supply of medicinal whisky; third, to check moonshine and reduce smuggling; and fourth, to force those who insist on violating prohibition laws to depend on home stills for their supply.

I am afraid that this program will leave the general but little time for refreshing rest or healthful recreation.

The withdrawals of denatured alcohol, which the bootlegger is so successful in reanaturing, jumped—terms of ordinary progression do not suit the case—from 22,388,824 wine gallons in 1921, to 81,808,273 in 1925. That this enormous increase in the use of industrial alcohol found its way largely into the channels of the bootleg industry is unquestionable. The amount that did so in 1925 is computed by Henry T. Rainer, the well-known dry Member of the House from Illinois, at 55,000,000 proof gallons; notwithstanding the efforts of the Federal Government to render it too poisonous and nauseous for beverage purposes.

Diversions of denatured alcohol have, of course, been swollen by the fraudulent diversion in one way or another of pure grain alcohol, too, and sometimes such diversions have been accomplished by sheer robbery and violence, as when a band of from 30 to 50 malefactors, none of whom has ever been brought to justice, recently took possession of a warehouse at Westminster, Md., bound its custodians, and carried away in trucks about 100 barrels of whisky.

The amount of medicinal whisky diverted in New York City alone in 1925 for beverage purposes, through the instrumentality of false medical prescriptions, has been estimated by Mr. Buckner at as high a figure as 275,000 gallons.

Moonshine, instead of being made, as it was before the enactment of the Volstead Act, in a few crude, sequestered localities, is now made, as the daily discoveries of the Federal and State prohibition forces evince, in swamps, in mountain fastnesses, in dense thickets, on rivers, in attics, in basements, in garages, in warehouses, in office buildings, even in caves and other underground retreats. In other words, moonshine is almost as ubiquitous as the radiance of the moon itself.

It is stated in the last report of Mrs. Mabel Walker Willebrandt, Assistant Attorney General, that during the Federal fiscal year 1924 to 1925, and for a "reasonable" period of time prior thereto, over 300 foreign vessels have been engaged from time to time in smuggling liquor into this country. Throughout the same time illicit overland agencies have also been transporting liquor in large quantities into it, across the Canadian and Mexican boundary lines. By the Federal Department of Commerce the business of smuggling liquor into this country is thought to have amounted in 1924 to about \$40,000,000 in value; and, so far as I know, there is no reason to believe that it amounted to any less sum in the year 1925. It is true that cargoes of great value are quite frequently taken from rum runners overhauled by the rum chasers of the Coast Guard. One valued at \$100,000 was captured at New York a few days ago. Another, valued at \$420,000, was captured in the same waters in January last; but incidents of this kind have all along been so common that there is little cause to think that the rum octopus will ever lack tentacles to back. Indeed, every time it loses one at least two seem to spring up in its place.

I see it stated in the press that as soon as General Andrews has accomplished the objects above mentioned he proposes to move on liquor-making in the home. Indeed, he has just set his entering wedge for this purpose in the bill that he had introduced into the Senate last Friday by Senator Gorr, of West Virginia. Of course, to be thoroughly consistent, he must not shrink even from the task of invading the sanctuary of the American home for the purpose of ascertaining whether a little home brew has become actually intoxicating or not; but certainly that is likely to prove the most tyrannical and inglorious of all the tasks that he will ever be called upon to perform. It is bad enough for the American taxpayer to have to pay the cost of maintaining a spy de luxe at the Mayflower Hotel, or to pay the salary of a sneak like the one in Maryland who recently wormed himself, by what were supposed to be honorable overtures of marriage, into the confidence of a young woman for the purpose of inducing her to sell him a small amount of bootleg liquor.

As I see it, the end of American liberty would, indeed, be in sight if an organized system of espionage were to encompass the American home, which might not scruple even to solicit servants to betray the confidence of their masters or to afford one member of a family an opportunity to wreak some festering grudge upon another.

Ever since I heard that even the home might not be spared by the enginery of the inquisition which prohibition has established in this country, the words of Lord Chatham, which were so familiar to our people when they were warring the liberties that have now been so lamentably abridged, have been haunting my memory:

"The poorest man may in his cottage bid defiance to all the force of the Crown. It may be frail; its roof may shake; the wind may blow through it; the storms may enter; the rain may enter; but the King of England can not enter."

It is sometimes said that the Volstead Act has not been successfully enforced because the Federal Government has not made a thoroughly sincere effort to enforce it. This statement is unwarranted. Never in the history of free institutions has any government more pertinaciously sought to carry out a policy, obnoxious to a powerful popular sentiment, than has the Federal Government in its relations to the Volstead Act. If it has not had its way, it has been only because of the vast amount of public hostility engendered by the artificial and impracticable nature of prohibition itself, and because of the extent to which the fidelity of many Federal prohibition and State police officials has succumbed to the corrupting gulf of a secret and unlawful business conducted by daring and unscrupulous men and patronized by reputable American citizens. Such an unnatural act is in itself an incessant incentive to faithless administration. General Andrews said last year that the bribery of Government officials is the chief obstacle in the way of the enforcement of the Volstead Act. Be that as it may, there can be no doubt that the higher officials of the Federal Government and the many brave and honorable subordinates in the prohibition service have done all that could be humanly done, under the circumstances, to make national prohibition a success. Congress has upheld it with a degree of persistency which has even drawn down upon its head the reproach, however unjust, of extreme subservency to the Anti-Saloon League.

Beginning for the year 1921 with an appropriation to the Treasury Department for the enforcement of the national prohibition act of \$6,350,000, congressional appropriations to the same department for the same purposes have increased from year to year until for the year 1926 they have amounted, to date, to \$9,678,734.09, and when to this amount are allocated the shares of the total amounts now appropriated for the general expenses of the Coast Guard and the Department of Justice, respectively, which are properly chargeable to the cost of enforcing the Volstead Act, there is good reason to believe that the current estimate that the enforcement of that act is costing the Federal Government at the present time some \$30,000,000 per annum is not excessive.

Both President Harding and President Coolidge may be said to have done all that they could in the exercise of their executive authority to secure popular obedience to the mandates of the act, the former even going so far as to call all the governors of the States together at Washington for the purpose of impressing upon them the importance of insisting upon its due observance; and the second, not only doing the same thing later but also convoking at Washington a similar gathering of some of the great industrial leaders of the country.

As for the Supreme Court, the legality of the Volstead Act has been shielded by it from attack with the full measure of dispassionate impartiality that to its infinite honor it has always brought to bear upon the discharge of its high judicial duty, and surely only a most carping spirit could find fault with the manner in which our Federal district judges have met the burdensome responsibilities imposed upon them by an unworkable law which must, at times, have sorely shaken their confidence in the wisdom of the legislative branch of the Government.

The disastrous and scandalous results which have followed the vain effort to enforce the Volstead Act may be briefly summarized. It has diverted into the pockets of foreign and domestic lawbreakers a large part of the immense tax revenue of \$443,839,544.98 that the Federal Government was receiving from distilled spirits and fermented liquors in 1918, and that could be most profitably employed to-day toward the payment of our national debt and the reduction of taxation. Among the domestic lawbreakers are reasonably supposed to be not a few millionaires. Indeed, some of them have thriven to such an extent that their incomes have even become objects of cupidity to the Federal income tax department. That act has also led to the expenditure in Canada, Mexico, Cuba, the Bahamas, the Bermudas, and Europe of millions of dollars, which, but for it, might have circulated in the channels of trade and commerce in the United States. It is believed by Glison Gardner, the well-known newspaper writer, who has made a special study of Canadian liquor conditions, that of the total annual gross receipts of the Quebec liquor commission, 40 per cent, or the sum of \$16,000,000, comes out of the purses of American visitors.

It is thought that as many as 200,000 American tourists visit Montreal and Quebec each season and that a large, if not the greater, part of these migrants are drawn away from the United States by the liberal liquor laws of Canada. Compute also what they spend in Canada on other things than liquor, and the magnitude of our pecuniary loss can be at least measurably calculated. The Volstead Act has placed human happiness in more than one vital particular under the irritating and harassing domination of a sour, corrosive, and narrow-minded puritanism, which does not hesitate to avow its enmity even to such innocent recreations as smoking and dancing. It has for the first time brought the church deeply into politics and helped to give point to the malignant observation of John Randolph, of Roanoke, that no countries are so badly governed as those that are governed by women, except those that are governed by priests. It has established a settled commerce between the worthier and the unworthiest members of the community. It has created an underworld almost as thoroughly organized as the respectable world above it. It is responsible for the unprecedented phenomenon of thousands and thousands of reputable men and women, including ministers of the law itself, living in habitual disregard of Constitution and law. It has tended to bring all laws, including itself, into more or less disrespect. It works the grossest discrimination between the wealthy individual who has a supply of preprohibition liquor, or does not lack the money with which to buy from the bootlegger at bootleg prices, and the humbler individual who has no such supply and can not afford such prices, but is forbidden even to make a small amount of wine or beer under his roof for his own use. In many instances it has deprived the poor drunkard of the monitor who could formerly admonish, rebuke, or even threaten him with a straight face, but can do so no longer. It has transferred distilling and brewing operations from the distillery and brewery to the home and under the very eyes of young children.

When the Volstead Act went into effect one of the vine growers of California killed himself because the prospects for his business seemed so dark. His prophetic outlook was poor. Since that time the vineyard areas of California have been very much enlarged; and a ton of California grapes commands a price many times as great as it did then. Last year, before the 21st day of October, 60,449 carloads of grapes were shipped eastward from that State, the bulk of which, the California grape grower reported, were intended to be converted into "fruit juice." I say nothing of the many other sources within and without the limits of the United States from which grapes were shipped to points in the United States for the same purpose; nor do I say anything of the vast amount of corn, sugar, and other materials that are used in home brewing.

A year or so ago I went down into the Italian quarter of one of our great cities on a warm, sultry summer night, when the doors and windows were open, and at one point the atmosphere was so strongly impregnated with the odor of wine in the making that I turned to my companion and said that a prohibition agent would not need any search warrant but his nose in that locality.

The Volstead Act has converted the Federal Government, with its denaturing outfit of poisons and filth, into a more monstrous Caesar Borgia than any that medieval Italy ever knew. In other ways also it has filled the bowels of the people with deadly concoctions. The Metropolitan Insurance Co., which has 17,000,000 industrial policyholders, writes me that between 1917 and 1920, the year that the Volstead Act went into effect, there was a decided downward trend in deaths among its policyholders from alcoholism, but that since 1920 there has been an upward trend; the figure for 1925 (2.9 deaths per 100,000 policyholders) being nearly five times the figure for 1920 (0.6). In a report rendered last year by the State hospital commission of the State of New York it was stated that alcoholic insanity had trebled in that State during the five years of national prohibition.

The Volstead Act has diminished the use of mild fermented liquors and stimulated the use of ardent spirits. The proportion of the latter consumed by American visitors to Canada is said to be altogether out of keeping with the amount consumed by Canadians. It has displaced the temperate, refreshing glass of beer or wine with the fiery pocket flask. The champions of prohibition "are obliged to admit that drinking among women is rapidly increasing," Bishop Thomas Nicholson, of Chicago, president of the Anti-Saloon League, was reported in the press as declaring, at the thirtieth annual convention of the league at Washington in January, 1924. Whoever saw women freely drinking cocktails before the advent of national prohibition? It has transformed the love of adventure and excitement which, within lawful bounds, is one of the most charming characteristics of youth in both sexes into a pit of destruction. After going over the face of a large part of the United States Ernest W. Mandeville, a writer in the Outlook, says, "Women and young boys and girls of social classes that never took a drink before prohibition are now indulging in liquors which are a menace both to their morals and their health." To the same effect is the testimony of Police Commissioner Richard E. Enright, of New York, and the Washington City police department. "Inability of the prohibition law to enforce pro-

hibition is causing an increase in the number of young boys and girls who become intoxicated," declared Judge H. C. Spicer, of the juvenile court at Akron, Ohio, a short time ago when two boys, aged 15 and 16 years, respectively, were arraigned before him. "During the past two years," he added, "there have been more intoxicated children brought into court than ever before."

"The Volstead Act has settled like a blight upon the entire joyous side of human existence," I had occasion to say quite recently, "and its acrid and intolerant spirit at times, by a perfectly natural process of transmigration, reappears in the shrouded activities of the bigoted Ku-Klux Klan." It has bred a spirit of hypocrisy worthy of the saintly stammers who, we are told by Butler in his inimitable Hudibras, "compounded for sins they were inclined to by damning those they had no mind to." It has fostered deceit, perfidy, espionage, and tyranny in some of its meanest and most hateful aspects. It has lowered the prestige of the Federal Government. It has even led more than one sober American citizen who gave his blood or treasure freely to our national cause during the World War to ask whether our forefathers did not shed their blood in the cause of American liberty at Bunker Hill and Camden in vain. It has done more than anything else has ever done to destroy the nice balance between State sovereignty and the national sovereignty which the framers of the Federal Constitution so wisely and beneficently devised. Its infatuated devotees have not even stopped short of petitioning the President to use the military arm of the Federal Government for the purpose of promoting its visionary objects, and more than one peaceful and reputable citizen, like the late Mr. Holt, of Raleigh, N. C., have been shot down in cold blood by its agents.

Worst of all is the extent to which the Federal service has been defiled by corruption hatched by it. In his recent review in the New York Times of the means by which national prohibition was achieved, Mr. Wayne B. Wheeler, the general counsel of the Anti-Saloon League, tells us that he and his fellow prohibitionists early adopted the rule of making it safe for a candidate to be a dry, and that in prosecuting this rule their expenses at one time amounted to about \$2,500,000 a year, a sum well calculated, it must be admitted, to impart a sense of safety to the breast of a legislative candidate when he had decided to espouse the prohibition cause. A valuable addition to this policy of "safety first" was the provisions of the Volstead Act which craftily bestowed upon the farmer the exceptional privilege of setting up ferments in fruit juices without regard to the wholly artificial standard of one-half of 1 per cent which the act imposed upon the city beer drinker.

Another valuable addition was the bait to legislative support held out in the clause of the Volstead Act which excepted from the Federal classified service, for the benefit of congressional place hunters, all the field positions in the Prohibition Enforcement Bureau. The result of this exception has been pithily stated by that eminent citizen, William Dudley Foulke, the former member of the United States Civil Service Commission, and once, at any rate, a prohibitionist. "They secured," he said, "the passage of the law with the clause in it and thereby made all these places the spoils of Congressmen, many of whom unscrupulously secured the appointment of scoundrels who accepted bribes, dishonored the service, and made the enforcement bureau what President Harding himself called it, 'A national scandal.'" These words were written in 1923. Since that time so many prohibition agents, including even some prohibition directors and so many policemen and other officers intrusted with the duty of enforcing prohibition, have soiled their hands with bribes or been guilty of other gross forms of misconduct in connection with prohibition work that if all of them were known nothing less than what Byron calls "the Recording Angel's Black Bureau" could undertake to list them all.

The corrupt prohibition agent or policeman is just as much a part of the bootleg industry as the bootlegger himself. Last year it took two Pullman cars to transfer to Atlanta the convicted policemen and prohibition agents corralled in a single round-up in Ohio. In May, 1925, a special grand jury in Morris County, N. J., was reported in the press as returning at one time 28 indictments against county officers and others for violations of the Volstead Act. About the same time the Rev. Marna S. Poulson, superintendent of the New Jersey Anti-Saloon League, was reported in the New York Times as saying in an address at a prohibition rally at Atlantic City, "I don't know of anyone who can make a dollar go further than policemen and dry agents. By frugality, after a year in the service, they acquire automobiles and diamonds."

Since the organization of the prohibition service to February 1, 1926, 875 persons have been separated from the Prohibition Unit mostly for official faithlessness or downright rascality. Nor does the total that I have given include delinquents not dismissed but only allowed to resign. Neither has the Coast Guard, that nursing mother of brave and devoted men, military as its discipline is, by any means escaped the contamination of prohibition. Since the duty was assigned to it of preventing the smuggling of liquor from the sea into the United States 7 temporary warrant officers, 11 permanent enlisted men, and 25 temporary enlisted men have been convicted of yielding in one form or

another to the seductions of money or liquor in connection with prohibition work.

I am unable to say how many members of the force have been arrested but not convicted. On December 10, 1925, a United Press dispatch reported that the entire crews of two Coast Guard patrol boats which had been assigned to patrol duty off the coast of Florida had been court-martialed for conniving with bootleggers. On March 8, 1926, a dispatch to the New York Times from Providence, R. I., announced that Capt. Eli Sprague, who had been for 12 years the commander of the New Shoreham (Block Island) Coast Guard station, and had shared in the rescue of more than 500 persons, had been held for trial on two secret conspiracy indictments. On or about February 18, 1926, the Washington Daily News reported that Boatswain's Mate Joseph Libby, who had walked barefoot through ice and snow to obtain succor for his comrades whom he had left unconscious from extreme cold on patrol boat 126, had been dishonorably discharged from the Coast Guard for bootlegging.

In view of what I have said, it is not surprising that Dr. Horace Taft, head master of the Taft School, at Watertown, and brother of Chief Justice Taft, should have said a few days ago at a law-enforcement meeting at Yale: "The United States is threatened with the rotting of her moral foundations and of her political and social structure as a direct result of prohibition."

The Manufacturers' Record, of Baltimore, has given, with the aid of the general prohibition propaganda, wide currency to the statement that in 1917 Judge E. H. Gary, of the United States Steel Corporation, Frank A. Vanderlip, Thomas A. Edison, and a thousand other leading men of affairs, signed a memorial expressing the opinion that the time had come for the Federal Government to take steps looking to prohibition; that in 1922 the Record addressed a letter to each of the memorialists, asking him whether he still favored prohibition; that only 7 per cent of the replies to these letters declared in favor of wine and beer; and that in 1925 similar letters were sent by the Record to the same persons, and that the replies to these letters were overwhelmingly in favor of prohibition. In other words, the Dutch had captured and were still in possession of Holland. These statements have been analyzed by Mr. E. C. Horst, a prominent citizen of the State of California, and I have recently received from him a letter, as follows:

The memorial is said to number.....	1,000
The memorial is short of 1,000 by.....	432
The memorial is signed by.....	568

"Of these 568 who signed the memorial, there were only 216 who voted in the final referendum of the Manufacturers' Record, and of those 216, only 88 were manufacturers or business men; the remaining 122 were professional men not engaged in manufacturing or trading. The Manufacturer's Record of 1922 published replies from 438 people, while the Manufacturer's Record of 1925 published replies from only 215; that is to say, that 223 of the 438 people that favored prohibition in 1922 did not reply to the editor of the Manufacturer's Record when he asked them for dry indorsements in 1925."

To such proportions does the most pretentious bulletin ever circulated by prohibition propagandists in support of the claim that the vast majority of the employers of the United States are in favor of prohibition shrivel when exposed to the ray of truth. Nay, more, moved by the wish to probe the conditions surrounding the claims of the Manufacturer's Record to the very bottom, the Daily Commercial News, of San Francisco, obtained signed statements from all the 844 advertisers whose names appeared in the issue of the Record in which only 7 per cent of the first replies received by the Record were said to have favored wine and beer. The result of the probe is published in the issue of the News for Wednesday, February 17, 1926, in these words:

"These 844 advertisers are scattered throughout the United States. One-fourth of the total number are in the Southern States, of whom 48 per cent responded, and of these 60 to 61 per cent replied over their signatures that they were in favor of legalizing light wine and 2 1/2 per cent beer; and 63 to 65 per cent of the votes state that most of their employees are in favor of legalizing beer and light wine. In the East, Central, and Middle Atlantic States the percentages in favor of legalizing light wine and beer are still higher."

It is confidently asserted that the extraordinary prosperity of the United States at the present time, as reflected in abundant employment, increased savings-bank deposits, and the purchase of motor cars is referable to prohibition. At best, as I had occasion a short time ago to say, that kind of argument is founded upon such vague premises and fortified by such uncertain trains of reasoning as to be practically worthless. It is hardly worth my while to deny that the present economic condition of the United States is not due to prohibition when there is no such thing as prohibition, or only such prohibition as unceasingly from year to year manifests itself in expanding criminal dockets and mounting arrests for drunkenness.

Prohibition does not exist in Canada, outside of some of its Maritime Provinces and Ontario, which, however, does not lack 4.4 per cent beer. Yet the economic welfare of Canada during the last few years, as

evidenced in building and other material activities, is so amazing that at times the Canadian dollar has commanded a premium over our dollar.

How is the general state of things that I have pictured to be corrected? I answer by frankly recognizing the fact that the human appetite for drink is just as natural as the human appetite for food or reproduction; that it can be regulated but not eradicated, except, perhaps, at a cost in terms of money and tyranny that modern civilization will not long endure, by amending the Volstead Act so as to allow the use of 2.75 per cent beer; and by amending the eighteenth amendment to the Federal Constitution in such a manner as to authorize the Federal Government to take over the entire management and control of the liquor traffic; so far as State local option shall permit it to be carried on at all.

This brings me to the consideration of what is known as the Quebec plan of government liquor control, created by the alcoholic liquor act passed by the Quebec Legislature, in February, 1921. This act provides for the appointment of five commissioners, known as the Quebec liquor commission, an official body which conducts the liquor trade in the name and for the benefit of the Quebec government. All the profits accruing from the trade fall into the consolidated revenues of the Province. The commission is given the monopoly of it in the Province, and spirits for beverage purposes can be imported and retailed only through its organization. For this purpose, the commission has established, to date, 90 stores, 40 of which are in the city of Montreal, and 10 in the city of Quebec, leaving 40 for the other cities of the Province. Spirits can be bought in these stores only between 9 o'clock in the morning and 6 o'clock in the evening on the first five week days and between 9 o'clock in the morning and 1 o'clock in the afternoon on Saturdays. Only one bottle may be purchased at a time by any one customer; and the liquor is delivered in sealed bottles, and must be taken away to be drunk at home. There is no place in the Province of Quebec where spirits can legally be bought by the glass and drunk on the spot.

Regulations as to wine and beer are much more lenient. First, as to wines. They are sold without limitation as to quantity in every store of the commission where spirits can be had. Furthermore, a few stores have been established exclusively for the sale of wines. Thirdly, a number of hotels and restaurants are licensed to sell wine to their guests at meals. Beer may be brewed in the Province, or shipped in under license from the commission. Brewers are allowed to sell to grocery stores, hotels, restaurants, taverns, and clubs licensed by the commission, for the retail of beer.

The purpose of these arrangements to discourage the purchase of spirits and to encourage the purchase of wine and beer instead is manifest.

In addition to the 90 stores operated by the commission for the retail sale of wine and spirits, there are in the Province of Quebec 480 hotels and 59 restaurants licensed to serve wine and beer to their patrons at meals, 573 taverns licensed to retail beer to be drunk on the premises, and 1,238 grocery stores licensed to sell beer by the bottle to customers who are required to take it away.

The right of local option is jealously preserved. Any municipality may by the action of the majority of its voters express its wish to remain or become dry. In that event the commission can not grant a license within its bounds, but any person living in a dry district can buy direct from the commission one bottle of spirits at a time and any quantity of wine.

The greater part of the Province in area and about half of it in population is dry by virtue of local option, and during the four years that the Quebec alcoholic liquor act has been in force the respective importance of dry and wet territories and populations has not been materially modified.

The total sales of the commission during the four years of its operation have exceeded \$72,000,000, of which amount some \$25,800,000 has been paid to the Canadian Federal Government in taxes. During the same period the net revenue received by the Quebec liquor government from different sources, including sales, permits or licenses, and seizures, has been around \$19,800,000, out of which sum nearly \$17,500,000 has been handed over to the Quebec government. Besides the commission has built up out of its revenue a working capital and surpluses amounting in the aggregate to \$2,350,000. These particulars have been derived by me from a paper by Arthur St. Pierre, in the Independent, of October 10, 1925.

Even more satisfactory than the financial results have been the moral results of the system. One of its effects has been to diminish the consumption of spirits by promoting the consumption of wine, and thereby to help to usher in the social conditions which Jefferson had in mind when he said, "No nation is drunken where wine is cheap, and none sober where the dearness of wine substitutes ardent spirits as the common beverage. It is, in truth, the only antidote to the bane of whisky. * * * Its extended use will carry health and comfort to a much enlarged circle. Everyone in easy circumstances (as the bulk of our citizens are) will prefer it to the poison to which they are now driven by their Government."

In 1924-25 the sales of wine by the commission exceeded its sales of spirits by 23,814 bottles, while in 1923-24 they were less by 864,960 bottles.

Another effect has been to bring about a steady decline in drunkenness. The commission was organized on May 1, 1921. In 1920 the monthly average for arrests for drunkenness in Montreal had exceeded 600; in 1921, after the organization of the commission, it was a little less than 550; in 1922 it dropped to 354; in 1923 to less than 300; and in 1924 to 243. According to a recent study made by Mr. William P. Eno, of Washington City, in 1923, such arrests per 100,000 of population in dry Boston were eight times what they were in wet Montreal.

Of course, the Quebec liquor plan can not be adopted by statute in the United States, because of the limitations created by the eighteenth amendment, but it could be naturalized in this country by an amendment to that amendment, and such an amendment is the one proposed in the bill introduced by me into the Senate, which is now before you.

As subsequently altered by me it reads as follows:

"Subject to present prohibitory provisions in the constitution of any State, and to laws heretofore or hereafter enacted in pursuance thereof, and to all existing local option laws in any State, so long as said provisions or laws shall respectively remain in force, the Congress shall have the exclusive power, with such enforcement aid as may be lent it by any State and be accepted by it, to regulate, but not to prohibit or unreasonably restrict, the manufacture, sale, transportation, importation, or exportation of intoxicating liquors, including the power to authorize any Federal agency that it may designate for the purpose, with the aid of such private business agencies as it may be authorized by the Congress to employ, exclusively to undertake and conduct, manage, and control the manufacture, sale, and distribution of such liquors; but with the approval of a majority of the voters in any county, parish, or incorporated city or town in any State upon which this article shall at the time be operative, at a special election held for the purpose, the legislature of such State shall have the power to prohibit the manufacture, sale, or distribution of intoxicating liquors within the limits of such county, parish, or incorporated city or town.

"The Congress shall be empowered to enforce this article by appropriate legislation."

The character of this amendment is almost too plain to require explanation. It confers upon Congress the power to enact a plan of liquor control which, like the Quebec plan, would be a combination of exclusive Government management and local option. This power, however, is expressly made subject to present prohibitory provisions in State constitutions and to State local option laws wherever they now exist, and to any local option laws that the States may pass in the future. Such laws could conceivably, by local initiative throughout the United States, be given an expansion that with existing systems of state-wide prohibition in the different States would make prohibition, backed by a genuine popular support, as completely coextensive with the entire territory of the United States as it is now supposed to be, but so far as the liquor traffic would not be swayed by State action it would be controlled by the national authority under such administrative restrictions and safeguards that the old right to ship liquor from wet territory to dry territory, which was one of the chief abuses of the past, could be cut down to any limits that suited the discretion of Congress.

The amendment recognizes the imperishable truth that communities are never so obedient to the laws as when they harmonize with their own special historic backgrounds and social customs, usages, and habits. In other words, it provides for the right of local self-government, which is the corner stone of all true liberty. It conserves whatever is good in existing prohibitory conditions. It would bar out the old saloon. It does not surrender national control over the liquor traffic in local communities, except to the extent that local communities signify at the polls their desire that it should be so surrendered, and it never surrenders national control for the purpose of enabling any local community to say that it will have any system of license except what Congress shall prescribe.

In other words, it has in mind an administration which would cling to all the workable results of the long agitation for national prohibition, and yet adjust itself with easy flexibility to all the local diversities of thought and feeling, prejudice, and predilection, which necessarily distinguish such a vast domain as that of the United States.

OFFENSES AGAINST THE NEUTRALITY LAWS

The VICE PRESIDENT. If there be no further concurrent or other resolutions, the Chair lays before the Senate a resolution coming over from a previous day, which will be read.

The Chief Clerk read the resolution (S. Res. 179) submitted by Mr. KING March 20, 1926, as follows:

Resolved, That the Attorney General report to the Senate the number of indictments which are pending in the United States District Court for the Western District of Texas charging offenses against the neutrality laws, together with a statement of the title of each such indictment and the date upon which the same was found; also specifications as to indictments charging offenses against the neutrality laws which

have been tried or otherwise disposed of since January 1, 1921, and a statement of the judgment in each such case.

Mr. CURTIS. Mr. President, last week I promised the Senator from Utah [Mr. KING], who does not seem to be present at the moment, that if he would allow this resolution to go over I should examine it and advise him whether or not there was objection to it. I will state that I have no objection to the passage of the resolution.

The VICE PRESIDENT. Is there objection to the consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

THE PHILIPPINE ISLANDS

The VICE PRESIDENT. The Chair lays before the Senate a concurrent resolution, submitted by the Senator from Mississippi [Mr. HARRISON], which will be read.

The resolution (S. Con. Res. 9), submitted by Mr. HARRISON April 3, 1926, was read, as follows:

Resolved by the Senate (the House of Representatives concurring), That a joint committee of Congress to consist of two Senators, to be appointed by the President of the Senate, and two Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives, is authorized to investigate all matters relating to the Philippine Islands, including (1) the political, economic, educational, and financial conditions of such islands, (2) the possibilities in the development of the natural resources of such islands, and (3) the relations of the United States with the Government and people of such islands. For the purposes of this resolution such committee is authorized to hold hearings and to sit and act at such times and places within the United States or the Philippine Islands; to employ such experts and clerical, stenographic, and other assistants; to require, by subpoena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents; to administer such oaths and to take such testimony and make such expenditures as it deems advisable. Not more than two members of such committee shall be from the same political party. The cost of stenographic service to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of such committee shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives. The committee shall report to the Congress as to its findings on or before January 1, 1927, together with recommendations for such legislation as it deems necessary and shall thereupon cease to exist.

Mr. CURTIS. I understand there is an agreement that that resolution shall go over without prejudice.

The VICE PRESIDENT. Without objection, the resolution will go over without prejudice.

PIER AT REHOBOTH BEACH, DEL.

The VICE PRESIDENT. The calendar under Rule VIII is in order.

Mr. BAYARD. Mr. President, I ask unanimous consent for the present consideration of House bill 5012. It is in the nature of a bridge bill. It merely grants the consent of Congress for the construction of a fishing wharf or pier on the Delaware coast. There is no opposition to the bill. It has passed the other House, and has been reported to the Senate with an amendment. It is a very short bill, and I am sure there will be no objection to it.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Commerce with an amendment, on page 1, beginning in line 3, to strike out the words "That the pier into the Atlantic Ocean, constructed at the foot of Rehoboth Avenue, Rehoboth Beach, Del., by Rehoboth Beach Anglers Club, a corporation of the State of Delaware, be, and the same is hereby, legalized, and the consent of Congress is hereby given to its maintenance by the said Rehoboth Beach Anglers Club," and in lieu thereof to insert "That the consent of Congress is hereby given to Rehoboth Beach Anglers Club, a Delaware corporation at Rehoboth Beach, Del., to maintain a pier constructed by it without permit into the Atlantic Ocean at the foot of Rehoboth Avenue at that place," so as to make the bill read:

Be it enacted, etc., That the consent of Congress is hereby given to Rehoboth Beach Anglers Club, a Delaware corporation at Rehoboth Beach, Del., to maintain a pier constructed by it without permit into the Atlantic Ocean at the foot of Rehoboth Avenue at that place: *Provided*, That any changes in the said structure which the Secretary of War may at any time deem necessary and order in the interest of navigation shall be promptly made by the owner thereof at its own expense.

SEC. 2. The right to alter, amend, or repeal this act is hereby expressly reserved.

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

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

SUBMARINE CABLE BETWEEN DULUTH, MINN., AND OLIVER, WIS.

Mr. WILLIAMS. Mr. President, I ask unanimous consent for the immediate consideration of Order of Business No. 542, being the bill (H. R. 7455) to legalize the submarine cable laid in the St. Louis River at the Spirit Lake Transfer Railway drawbridge, between New Duluth, Minn., and Oliver, Wis., and used for the lighting of the village of Oliver, Wis. It is quite similar in character to the bill which has just been passed.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Commerce with an amendment on page 1, line 3, after the enacting clause, to strike out "That the submarine cable laid in the St. Louis River at the Spirit Lake Transfer Railway drawbridge, between New Duluth, Minn., and Oliver, Wis., by the Coyne Electric Shoppe, of Hibbing, Minn., and used for the lighting of the village of Oliver, Wis., be, and the same is hereby, legalized to the same extent and with like effect as to all existing laws and regulations of the United States as if the permit required by the existing laws of the United States in such cases made and provided had been regularly obtained prior to the laying of said cable," and in lieu thereof to insert "That the consent of Congress is hereby given to the Coyne Electric Shoppe, of Hibbing, Minn., to maintain the submarine cable heretofore laid by it without permit in the St. Louis River, at the Spirit Lake Transfer Railway drawbridge between New Duluth, Minn., and Oliver, Wis.," so as to make the bill read:

That the consent of Congress is hereby given to Coyne Electric Shoppe, of Hibbing, Minn., to maintain the submarine cable heretofore laid by it without permit in the St. Louis River at the Spirit Lake Transfer Railway drawbridge between New Duluth, Minn., and Oliver, Wis.: *Provided*, That any changes in said cable which the Secretary of War may deem necessary and order in the interest of navigation shall be promptly made by the owner thereof.

SEC. 2. The right to alter, amend, or repeal this act is hereby expressly reserved.

The amendment was agreed to.

Mr. FLETCHER. Mr. President, may I inquire of the Senator from Missouri if this bill, as well as the one which was passed just preceding it, preserves in the War Department through the Secretary of War control over conditions so that there can be no interference with navigation?

Mr. WILLIAMS. The Senator is quite correct; that is provided for.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

IMPORTATION OF FOREIGN SEEDS

Mr. GOODING. Mr. President, I ask unanimous consent for the immediate consideration of Order of Business No. 213, being the bill S. 2465, known as the pure seed bill.

The VICE PRESIDENT. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 2465) to amend the act entitled "An act to regulate foreign commerce by prohibiting the admission into the United States of certain adulterated grain and seeds unfit for seeding purposes," approved August 24, 1912, as amended, and for other purposes.

Mr. GOODING. Mr. President, from the beginning of civilization the greatest asset of every nation has been the fertility of its soil, and history teaches us that those nations that have permitted their soil to become impoverished went down to decay, and we find that cities of those countries which were at one time great and powerful are to-day covered with sand dunes and around and about them are deserts and barren wastes.

In the discussion of the Italian debt much has been said about the exhaustion of the soil of that country. Let me say, Mr. President, if the soil of Italy is exhausted, we might just as well forget the Italian debt to-day as to-morrow; for unless

Italy brings back her soil into productiveness, that country will suffer the fate of all nations that have perished through the exhaustion of their soil. It is said that Germany's soil is rich, and there is no question about Germany's ability to pay her indebtedness to other nations; and it is said the soil of France is rich, and that France will be able to meet her obligations if she wants to do so.

While the Senate has been discussing the fertility of the soil of foreign countries, and their ability to "pay" as measured by the fertility of the soil, I have been trying to get the Senate to consider Senate bill 2465. The enactment of that is vital to our American soil; for I am sure it is safe to say, Mr. President, that more acres of land have been abandoned in the United States through the exhaustion of the soil than all of the acres of land under cultivation in Italy at the present time, and that may be true of other countries I have mentioned.

Here in sight of the Capitol I find farms abandoned that were once rich and fertile. It is said that 500,000 acres of land are being abandoned every year because of exhaustion of the soil, and that between 8 and 9 per cent of all the farm-houses in America are vacant. One can not travel anywhere in the East without seeing abandoned farms, and this condition resulting from the exhaustion of the soil is fast extending westward. So it seems to me, Mr. President, it might be well to take up a little time of the Senate in discussing the fertility of our own soil and the importance of our own prosperity and happiness and our own civilization, for I am sure every Senator knows and understands that the basis of our civilization rests on the fertility of our soil.

The Senator from Alabama [Mr. UNDERWOOD], in the last session of Congress, in the discussion of the Muscle Shoals question, made the statement that two grave dangers confronted the life of every nation. One, he said, was from invading armies, and the other from the exhaustion of the soil. As I remember the Senator's remarks, he placed exhaustion of the soil as being far more dangerous to the life of nations than invading armies, and in this contention I am in full accord with the senior Senator from Alabama.

Every year Congress appropriates hundreds of millions of dollars for our Army and our Navy to insure this country against invading armies and to preserve the peace of our country, but up to the present time the Government has done very little toward maintaining the fertility of our soil. All together we have spent something like \$150,000,000 on Muscle Shoals, the original purpose of which was to manufacture nitrogen for explosives in time of war and nitrogen for fertilizer in time of peace. My hope is, Mr. President, that the importance of Muscle Shoals for the manufacture of nitrogen for fertilizer will not be lost sight of in the leases that I understand will be reported to Congress in a few days, for I am sure there is a very serious condition confronting America to-day from the exhaustion of our soil.

Mr. COPELAND. Mr. President—

The PRESIDING OFFICER (Mr. NORRIS in the chair). Does the Senator from Idaho yield to the Senator from New York?

Mr. GOODING. I yield.

Mr. COPELAND. I desire to ask the Senator from Idaho if the exhaustion of the soil to which he is now referring can be definitely traced back to the use of foreign-grown seed?

Mr. GOODING. There is no doubt at all about it, and I am going to prove that before I get through—much of it, at least.

The President, in his annual message to the Sixty-eighth Congress, in speaking of Muscle Shoals, said:

The production of nitrogen for plant food in peace and explosives in war is more and more important. It is one of the chief sustaining elements of life. It is estimated that soil exhaustion each year is represented by about 9,000,000 tons, and replenishment by 5,450,000 tons. The deficit of 3,550,000 tons is reported to represent the impairment of 118,000,000 acres of farm lands each year.

The President, in the same message, said:

The total crop area for the season just passed was 370,000,000 acres.

So, Mr. President, if there is an impairment in the productiveness of our soil of 118,000,000 acres of farm lands each year out of a total crop area of 370,000,000 acres, then a most dangerous condition confronts America to-day from the loss of the fertility of our soil.

Mr. President, not only has the fertility of the soil measured the progress and advancement of all nations from the beginning of civilization when men first tilled the soil but in a large measure it has been responsible for the virile forces of the citizenship in every country. That is especially true in this country; for if you will show me a community anywhere in America where the soil is exhausted, and it has become a

struggle to keep the wolf from the door, I will show you a community where the citizenship, like the soil, has gone backward. I remember reading a story a few years ago of how all the male population in two counties in one of the greatest States in the Union had been indicted for selling their votes; and investigation showed that the soil that was once rich in those two counties had become exhausted, and the citizenship, like the soil, had gone backward.

Mr. President, it is said that half a million of our citizens are leaving the farms every year, crowding into the great cities, and most of them are young boys and girls, and in some parts of this country only the old men are left on the farms. The boy hardly waits until he is through school before he leaves the farm and goes to work in some industry in the great city. So it seems to me, Mr. President, if America is to be saved from the fate of other countries that have permitted their soil to become exhausted that every agency of this Government must be directed toward preventing the depletion of our soil.

Nature has furnished a remedy for keeping up the fertility of the soil if we only give it an opportunity, for if you will show me a farm anywhere in America where the farmer has been able to get a catch of clover and clover or alfalfa has been grown and livestock has been maintained on the farm, or where clover or alfalfa has been turned under, I will show you a farm as rich to-day as when the plow turned over the first furrow. Clover and alfalfa are the greatest fertilizers the world has ever known, for the roots of both clover and alfalfa carry nitrogen into the soil; and when you can grow clover and alfalfa crops it is possible to keep livestock on the farm, but without a forage such as clover or alfalfa it is almost impossible to keep livestock on the farm.

So, Mr. President, unless you can keep livestock on the farm so as to return something to the soil from the barnyard, or by turning under clover or alfalfa crops to give the soil humus, known as vegetable mold, or generally called green manure by the farmer, the soil becomes exhausted. The farmer is not able to do this unless he can get a catch of clover or alfalfa; and in that event, after years of disappointments and losses, he gives up the fight and the farm is abandoned.

Mr. President, I do not want to take up too much of the time of the Senate, but I send to the desk a letter from Vermont and ask that it be read.

The PRESIDING OFFICER. Without objection, the letter will be read.

The legislative clerk read as follows:

THE VERMONT FARM BUREAU FEDERATION,
March 27, 1926.

Senator GOODING,

United States Senate.

DEAR SENATOR GOODING: In the last session of our State legislature we succeeded in passing a much-needed pure seed law. We realized then, as we do now, that in some of the seeds in which we need protection most our State law would not protect us unless a Federal act were passed along the lines of your proposed bill.

We are very much interested in your bill, and believe there is no valid objection, except by those who profit by selling seeds not adapted to our use. Only yesterday the manager of one of our cooperative exchanges was talking to me about this very thing. The subject came up as I was ordering some seed for my farm. The manager told me that he made every effort to get seeds of proper origin for our use, but was obliged to rely entirely on the word of somebody he did not know, and that somebody could only rely on the word of somebody else.

To-day's mail brings me the action of one of our county farm bureau executive committees urging passage of your bill. This action was taken entirely without suggestion from us, simply the result of those farmers reading about the bill and then thinking of their own sowing, and wondering whether that costly seed and still more costly labor would bring them a crop or whether they will suffer from one of those community epidemics of "no catch" in their clover fields. These epidemics are frequent and unnecessary, and until a few years ago were unexplained.

If your bill fails of passage we shall be unhappy and feel that once more we have been thwarted cleverly by profiteers.

Very truly yours,

E. B. CORNWALL, *President.*

Mr. BINGHAM. Mr. President—

Mr. GOODING. I yield to the Senator from Connecticut.

Mr. BINGHAM. Objection to this bill has been made on the ground that it would increase the cost of the seeds. To find out whether or not the objection was valid, I submitted to one of the trustees of the Connecticut Agricultural College a letter, which, with the kind consent of the Senator from Idaho, I shall ask to have read at this time.

The PRESIDING OFFICER. Without objection, the letter will be read:

The legislative clerk read as follows:

EASTERN STATES FARMERS' EXCHANGE,
Watertown, Conn., March 29, 1926.

Senator HIRAM BINGHAM,

Washington, D. C.

MY DEAR SENATOR: Your letter in reference to the pure seed bill now pending received. Am inclined to agree with you that passage of this bill will probably increase the price of reliable seed as there is such a large quantity of imported legume seeds (alfalfa and clover) being imported from southern climes which could no longer be sold as suitable for planting in New England, but I believe that such increase in price can be looked upon as seed insurance, and the extra price in the seed will play an unimportant part in the whole cost of the seeding operation and would be negligible compared to a loss of crop from such seeding. Our exchange deals in seed as well as feed and fertilizer, and we realize the importance of reliable seed suitable for use under our rigorous winter conditions. I am also closely in touch with the extension department of the agricultural college and know how important they consider this measure to be. Should say that a loss of seeding due to planting seed which will not live through the winter in our climate could run as high as \$100 an acre when cost of preparing the ground and loss of expected crop is considered.

Very sincerely,

S. McLEAN BUCKINGHAM.

Mr. GOODING. Mr. President, I have a letter from Mr. Buckingham, in which he tells me that the Eastern States Farmers' Exchange represents 16,000 farmers in New England. I shall not ask to have this letter read, but ask to have it inserted in the RECORD.

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

The letter is as follows:

EASTERN STATES FARMERS' EXCHANGE,
Springfield, Mass., January 30, 1926.

Hon. FRANK R. GOODING,

United States Senate, Washington, D. C.

SIR: Acting under authorization of the executive committee of the Eastern States Farmers' Exchange, I am writing to indorse your stand with respect to imported clover and alfalfa seed as expressed in your bill S. 2465. You may be interested to know that the exchange is a cooperative buying organization purchasing seed, feed, and fertilizer requirements for approximately 16,000 farmers in the New England States and Delaware.

The adaptability of clover and alfalfa seed to climatic conditions is of particular importance in the New England States and this organization is eager to further any legislation which protects our farmers from seed which is not adaptable. We believe that bill S. 2465 takes care of this feature in that it requires that all imported alfalfa and red-clover seed be colored or marked according to designation fixed by the Secretary of Agriculture, and it further stipulates that all especially undesirable types be stained red to the extent of at least 10 per cent of the quantity involved.

We are hopeful that this expression of our support for your bill may be of some benefit in having the bill enacted.

Respectfully yours,

S. McLEAN BUCKINGHAM.

President.

Mr. GOODING. I also have a telegram from the secretary of the Farm Bureau Federation of Maryland, Mr. M. Melvin Stewart, which I ask to have inserted in the RECORD.

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

BALTIMORE, Md., March 29, 1926.

Senator FRANK R. GOODING,

Washington, D. C.:

Maryland Farm Bureau Federation indorses the Gooding-Ketcham seed bill. Maryland farmers have lost thousands of dollars because of unadapted foreign seeds sold to them either straight or blended as first-class clover or alfalfa seed. We have requested our Maryland congressional delegation to support this bill.

MARYLAND FARM BUREAU FEDERATION,
M. MELVIN STEWART, *Secretary.*

Mr. GOODING. I also have here a telegram from Mr. Buckingham, from Vermont, asking that action be taken on this seed bill. I ask to have it printed in the RECORD.

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

WATERTOWN, CONN., April 3, 1926.

Senator GOODING,

Washington, D. C.:

Connecticut Farm Bureau approves Gooding-Ketcham pure seed bill. All legume seed not adapted to New England climatic conditions. Be-

Have this bill will act as assurance against such seed grown in foreign countries and not adapted to our climate. Loss of crop a serious matter.

S. McLEAN BUCKINGHAM,
President Connecticut Farm Bureau Federation.

Mr. GOODING. Mr. President, in regard to the increased cost to the farmers, an investigation in the State of Iowa showed that imported seed was sold there, and that the farmers paid the same price for it as they did for domestic seed. Surely every Senator knows that no farmer is ever given the benefit of any cheap imported seed or anything else. That was pretty thoroughly demonstrated, it seems to me, in the case of the 350 imported articles of which we had a complete record that were used here in the tariff discussion. It was shown there that in no case did the department stores of New York and Philadelphia or any other city give the purchasers of articles from their stores any benefit from cheap imported articles.

I think we understand very well that to-day there is a thorough organization, not only in this country but in foreign countries, to keep up prices. It was stated by the senior Senator from Montana [Mr. WALSH], when the aluminum investigation was being discussed here, that he found that the organization to keep up prices on aluminum extended beyond this country into foreign countries.

For my own use, something more than a year ago, through the Secretary of the Treasury, I purchased three different articles in one of the department stores of New York City, and they were taken back and identified by Government officials. One was a pocket-knife for which I paid \$8.40. It was found that it cost in Germany 54 cents. The landing cost in this country was 96 cents. Another was a razor, made of manganese steel, that cost me \$5 in New York, and it cost 19 cents in Germany. The landing charges were around 50 cents. As I say, I paid \$5 for it.

Mr. COPELAND. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from New York?

Mr. GOODING. I do.

Mr. COPELAND. I merely wanted to ask the Senator if he bought a gold brick, too, while he was in New York?

Mr. GOODING. I bought a gold watch, or one that was plated with gold, at the same time. It cost in Switzerland 64 cents. The landing charges were a little less than a dollar. I paid \$3 for it, and I want to say that it kept excellent time for something like 18 months, too.

So, as far as the farmers or the American people securing any benefit from the cheap articles that are sent into the country is concerned, that idea is so thoroughly exploded, it seems to me, that I wonder that it is even suggested that there is any doubt at all about that question, especially when it comes to foreign alfalfa or clover seed, that is so easily blended with domestic seed. It may be true that some of the larger houses sell that seed to the dealers among the farmers cheaper than they do the domestic seed, but when it reaches the farmer it is conclusively shown that the farmer pays the full price for it, and buys it as domestic seed.

I am taking more time on this question than I feel that I ought to take; but it seems to me that the importance of the farmer knowing what seed he buys, and whether or not it is dependable for his use, is so great, not only to him but to the whole country, that at some time consideration ought to be given to this measure.

Mr. COPELAND and Mr. KING addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Idaho yield, and, if so, to whom?

Mr. GOODING. Yes; I yield first to the Senator from New York, and then to the Senator from Utah.

Mr. COPELAND. Mr. President, I think the Senator from Idaho should make clear to the Senate just exactly the significance of this measure.

Mr. GOODING. I do not care to yield for any discussion of the bill, because I intend to do what the Senator has suggested before I conclude. As I have said before, if the bill were not of more than ordinary importance, if not of vital importance, to the Government itself, and to its citizenship, and to everything that goes to make up a government, I would not take up the time to discuss it.

Mr. COPELAND. I do not want the Senator to misunderstand my attitude. I am inclined to favor his bill, but I have had a lot of protests about the embargo placed upon bulbs from Holland, and during the winter we found that we could bring no potatoes in to feed the hungry in my city. I do not, for my part, want to be a party to giving the Agriculture Department more power unless it is along a line where it can be demon-

strated by the Senator that it is absolutely necessary to the welfare of the American farmer.

Mr. GOODING. I think I shall be able to prove that to the Senator very conclusively.

Mr. BAYARD. Mr. President—

The PRESIDING OFFICER. Does the Senator yield to the Senator from Delaware?

Mr. GOODING. I yield.

Mr. BAYARD. Is it not a fact that all imported seeds for farming purposes are tested at the port of entry by the Department of Agriculture?

Mr. GOODING. If the Senator will let me explain the situation, they may be tested as the general seed law provides for imported seed, but that does not meet the difficulty at all. We have found, and I am trying to show, that foreign seed—Italian seed—is not adaptable for use in this country or in any part of the country unless it is out on Puget Sound. I am so advised by the Department of Agriculture.

Mr. BAYARD. When the Senator says "not adaptable," does he mean that it squeezes out domestic seeds?

Mr. GOODING. I mean to say that it does not stand our winters, and that is especially true of New England.

Mr. LENROOT. Mr. President, referring to the question of the Senator from Delaware, is it not true that seeds are tested only to ascertain whether they come within the provisions of the present law?

Mr. GOODING. That is all.

Mr. LENROOT. And that there is no law relative to adaptability at all? There must be specific things found in order to shut them out.

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

Mr. GOODING. Yes.

Mr. KING. The bill gives to the Secretary of Agriculture the unrestrained power to determine that imported seed is not suitable for use in certain parts of the United States. His decision may be right, or it may be wrong, but there is no appeal or opportunity to review the same. He may abuse his discretion, and render a capricious and unwarranted decision, but it would seem from a hasty examination of the bill that the purchaser or importer has no remedy or any way of obtaining relief. I shall be glad if the Senator will discuss this provision of the bill.

Mr. GOODING. I intended to discuss that before I got through, but I will discuss it now. The bill provides that the Secretary of Agriculture shall arrange for public hearings, and when it is found, through those public hearings, that seed from any country is not adaptable, then, after 90 days' notice, that seed is to be stained red, so that it may be distinguished anywhere. Ten per cent of it is to be stained red. In the case of all seed that is imported 1 per cent must be stained, so that it may be known from what country it comes.

Mr. KING. Knowing the fallibility of Federal bureaus, and their desire to aggrandize themselves, and to assert arbitrary power, as they too often do, I am always afraid of any bill that gives to them absolute authority and power to determine any question. Wherever it is possible, I am desirous of providing an opportunity for judicial review.

Mr. GOODING. If we can not leave to the Secretary of Agriculture a little matter like finding out whether seed is adaptable for farmers' use in this country, we had better stop appropriating the hundreds of millions of dollars we are appropriating for the Department of Agriculture.

Not only has the Secretary of Agriculture, after years of experience, decided that this bill is important to agriculture and to farmers, but practically all the agricultural colleges, I am advised, have gone on record for it; all the farm organizations in the country have gone on record for it, including the National Grange, the Farm Bureau Federation, and the National Dairy Associations. I contend that when the farmer comes to this body, and asks for some legislation, if it is going to cost him more, that is his affair, but his request ought to be granted. Senators should not stand here and try to defend some importers in this country; and let me say that with the exception of a few importers all the country is for this bill.

Mr. KING. I have not said a word about importation or defended importers. I did not rise to discuss the bill, but in a friendly way ask the Senator to consider a feature of the bill which may provoke discussion. I have not said a word about the merits of the bill, or indicated any opposition to its important provisions, or, for that matter, to any of its features.

Mr. GOODING. What appeal would the Senator have after the Secretary has found, with all his years of experience and from actual tests, that seed is not adaptable? Would he then permit the seed to be imported into this country? If we are

not to have confidence in the Secretary of Agriculture in such matters as this, then our appropriations for the Department of Agriculture are useless.

Mr. KING. Secretaries of Agriculture are only human, and some of them have but little scientific knowledge. They are compelled to rely upon subordinates, some of whom lack scientific qualifications and many of whom are imbued with the bureaucratic spirit, and with the idea that Government officials—and employees of the Agricultural Department particularly—can do no wrong. We are learning more and more of the fallibility of human judgment, and that even the most learned and experienced make egregious blunders. The most competent surgeons and physicians often doubt their own judgment and seek reviews of their opinions by others.

Much of the legislation which we enact, no matter how carefully prepared, is to correct preceding legislation, and half of life is spent in correcting the mistakes of the other half of life, and children spend much of their lives in correcting the mistakes of their fathers. Perfectibility is not found in the Agricultural Department, and its errors are brought to our attention from time to time.

The Senator asks if I would permit improper seed to be imported into this country. Of course I would not, and I am not arguing that question at all. I merely suggested the propriety of the Senator discussing the provision of the bill which gave to the Agricultural Department such unlimited power. The Senator knows that in the West we are constantly protesting against the abuse of discretionary power conferred upon departments. We know that many decisions have been rendered which were arbitrary and unjust, but from which in many instances there was no appeal.

We may have as much confidence in Secretaries of Agriculture as we do in Secretaries in other departments, but that is not the question involved. It is not a question of confidence; it is that of providing, if we can, against errors of judgment, of mistakes that possibly may be made. The greatest judges have sometimes rendered the most erroneous decisions. Appellate courts are provided because we know that judicial tribunals, no matter how competent and capable and honest the judges may be, make mistakes.

I only had in view, when I suggested the question to the Senator, the propriety of affording some right of review of the decision of the Secretary of Agriculture in the event the purchaser of seeds honestly believed that an injustice had been done or a mistake had been made, and he was willing to go to the expense and the trouble of having a further consideration of the matter by such agency or tribunal as might be set up by the Government.

I have recently had some experience with the Immigration Service. Unfortunately, the law does not afford adequate protection for persons who are ordered deported, and I have no doubt but that injustices are done to persons who are rightfully entitled to remain in the United States. Wherever possible I shall favor an appeal from bureaus and officials who are given supreme authority and wide discretion.

I do not know that in the matter before us other safeguards could be provided than those found in the bill; but if possible, Congress should not lodge absolute authority and power, without any possibility of review, in any bureau or official of the Government. That view does not involve any lack of confidence in individuals who may hold official positions, although I believe that in some executive departments employees and officials of the Government are found who are arbitrary and who abuse the discretion which the law gives to them.

I have no doubt that if this bill passes and becomes a law great pressure will be brought upon the Secretary of Agriculture to prevent the importation of any seeds described in the bill into the United States. Many reasons will be urged against foreign seeds, and experts will be found who will give opinions to support the position which they are employed to defend or assume. That is human nature. We know that when a tariff bill is before Congress great pressure is brought to place embargoes upon thousands of articles which may be imported into the United States, and we know that the pressure brought and the arguments adduced are sufficient to, in many instances, accomplish the end desired. Of course we do not want seeds imported into the United States which are valueless and which will result in injury to the farmers, but in securing legislation to accomplish a desirable result we want to be careful not to work an injustice either to farmers who may purchase foreign seed or to importers of such seed.

Mr. GOODING. Has the Senator confidence in the agricultural colleges, for the support of which the States are providing millions of dollars every year, and for which the General Government also is appropriating money?

Mr. KING. Mr. President, I have as much confidence in agricultural colleges as has the Senator. They are doing a great amount of good, and many able men connected with them. I have confidence in the Senator, but I would not commit to him, or to any other person in whom I have the same confidence, unrestrained authority and discretion to pass upon many vital questions. I should want to provide some method of appeal or of review, so that if a mistake were made it could be rectified and the ends of justice not defeated.

Mr. BUTLER. Mr. President, I desire to ask the Senator a question on that very point. He has stated that there was a provision in the bill for a hearing. I fail to find such provision. I would like very much to have that.

Mr. GOODING. The bill provides for hearings and investigation on the part of the Secretary of Agriculture.

Mr. BUTLER. It does not so appear in the bill. There is no such statement in the bill.

Mr. LENROOT. Mr. President, the bill expressly provides that the red color as a mark of condemnation can not be placed upon the seed until after a public hearing. That appears in lines 11 and 12.

Mr. BUTLER. Mr. President—

Mr. GOODING. I am going on now. I shall not yield further until I make my statement. Then I will yield to the Senator from Massachusetts or to any other Senator. I want to get through with my statement. At least, I want to present the case to the Senate, and then it will be up to the Senate to do what it pleases with the bill.

The astonishing thing to me is that the Government has given so little attention toward protecting this country from becoming a dumping ground for all of the poor seeds in the world, as far as clover and alfalfa are concerned, for there is no chance for the farmer to tell foreign seed from domestic seed; and it has only been since 1922 that the Government has made experiments in order to find out what clover and alfalfa seeds are adaptable for use in this country. It is freely admitted by those who have been making a study of the losses this country has suffered through not protecting it against clover seed that is not adaptable that those losses can be measured, not by millions but by billions. For a number of years there have been imported into this country between eight and ten million pounds of red clover and alfalfa seed. That means a million or more acres in this country that are sown with foreign seed; and at this point I want to call the Senate's attention to an experiment made by Mr. H. D. Hughes, of the agricultural college in Iowa, in 1924, because it seems to me this experiment tells the whole story. This is what Mr. Hughes has to say:

TO WHAT EXTENT IS UNADAPTED IMPORTED RED CLOVER SEED BEING OFFERED FOR SEEDING IN THE CORN-CLOVER BELT

The Iowa Department of Agriculture is required to test and sample lots of seed offered farmers for planting. Such samples taken by the inspectors of the department in the spring of 1924 were tested for purity and germination by the farm-crops section of the Iowa Agricultural Experiment Station and later, with the approval of the Iowa Department of Agriculture, 120 of these samples were planted in the field in comparison with 73 samples known to have been imported and with 146 samples of domestic seed. The purpose in making these plantings was to determine the extent to which imported red clover is being offered Corn Belt farmers.

Red-clover plants produced from imported seed can be identified quite easily, owing to the fact that such plants have practically no pubescence. In case any of the fine hairs are present they are flattened against the culm, while on our American plants they are abundant and stand at right angles to the culm.

The European plants can also be distinguished when in mass by their smaller, lighter-colored flowers. The American type not only produces much larger, darker-colored flowers but also many more of them. The stems or culms of the European clovers, in addition to being hairless, are also finer and inclined to be more erect.

The fact that practically all of the plants in certain seedings winter killed almost certainly identified them as imported, in view of the fact that lots known to be imported and grown under the same conditions killed when plants known to be domestic did not.

Apparently from 30 to 40 per cent of the red-clover seed offered in the Corn Belt in 1924 was imported seed or a blend of imported and native seed. Slightly over 12 per cent of the samples grown in the field were identified as imported seed, 5 per cent as blended seed, with over 50 per cent of the mixture imported and approximately 10 per cent blended, with from 25 to 50 per cent imported. An additional 13 per cent gave evidence of the presence of imported seed.

Of the 14 lots of seed identified as imported and which gave good stands in 1924, all winter killed to such an extent that not one produced a crop. The average stand from these seedings was estimated as 21 per cent in 1925, though the plants surviving were so injured

and small as to have little economic significance. It will be noted from the data below that the blended seed gave a half stand, while plantings made with domestic seed made very satisfactory stands, an average of 87½ per cent perfect for all plants.

Apparent source of origin of red-clover seed taken from Iowa dealers in the winter and early spring of 1924; also the estimated per cent stand in 1925

Apparent origin of seed	Number of samples	Per cent of samples	Estimated per cent of stand in 1925
1. Imported	14	12.4	21.4
2. Imported, blend (over 50 per cent imported)	6	5.3	50.0
3. Imported, blend (25 to 50 per cent imported)	11	9.7	64.0
4. Doubtful	15	13.3	69.0
5. Domestic	67	59.3	87.5
Total	113	100.0	

While these tests include only samples taken from local Iowa dealers, they are undoubtedly representative of the seed sold throughout the central Corn Belt, as it will be noted that our local dealers secured their seed from large wholesalers in different parts of the Corn Belt, including almost every State adjacent to Iowa.

Of the eight companies wholesaling the largest amounts of seed to local dealers in this State, five have apparently made it a practice to handle large quantities of imported seed not adapted to the Corn Belt. Of these five, three are located outside of Iowa and may be expected to wholesale a great deal more seed to dealers in States other than Iowa.

We believe, therefore, that these tests may be regarded as indicative of the amount of imported seed being disposed of to farmers in the central Corn Belt.

In view of the amount of imported clover found to have been sold in the State, it is of interest to know that not one of these was labeled as imported. Our seed law requires seed to be labeled, showing location where grown. These were all labeled as domestic sources, grown either in Minnesota, Wisconsin, Michigan, Ohio, Iowa, or Idaho.

Wholesalers and jobbers named by local dealers in Iowa as supplying seed planted in the field at Ames, Iowa, and the per cent of such samples giving evidence of having been imported or blended

Name of wholesaler or jobber	Number of samples	Average per cent stand ¹	Average per cent reduced stand ²	Per cent straight imported	Per cent doubtful	Per cent native imported blend	Per cent native
Northrup King	16	80.3	45.82	6.25	12.50	6.25	75.00
Standard Seed Co.	13	76.9	49.68	7.69	15.38	20.76	46.17
Hamilton Seed Co.	10	77.5	49.63	20.00	20.00	20.00	40.00
Albert Dickinson	8	59.0	60.13	25.00		37.50	37.50
J. Tweites Seed Co.	5	85.0	37.05				100.00
Sioux City Seed Co.	5	78.0	46.20	20.00			80.00
Nebraska Seed Co.	4	59.0	59.95	50.00	20.00		25.00
North American Seed Co.	4	51.0	55.15	25.00	25.00	25.00	25.00
North Field Seed Co.	3	88.0	44.17		33.33		66.67
Bruns Seed Co.	3	60.0	65.64	33.33			66.67
Sioux Falls Fruit Co.	2	85.0	46.54				100.00
Courteen Seed Co.	2	45.0	67.32			100.00	
Rudy Patrick Seed Co.	2	100.0	24.07				100.00
Plant Seed Co.	2	75.0	43.72		50.00		50.00
Haley-Nesley Co.	2	62.5	43.59				100.00
Field Seed Co.	2	82.5	59.42			50.00	50.00
A. A. Berry	1	85.0	60.22				100.00
C. A. Hornaday	1	85.0	63.37				100.00
Minneapolis Seed Co.	1	98.0	47.03				100.00
Owen Seed Co.	1	90.0	46.00				100.00
J. S. Brown	1	100.0	47.64				100.00
Younkerman Seed Co.	1	40.0	58.51			100.00	
L. L. Olds Seed Co.	1	65.0	44.94			100.00	
J. Chas. McCullough Seed Co.	1	90.0	37.16				100.00
Iowa Seed Co.	1	44.0	32.31		100.00		
Geo. W. Healy & Son	1	25.0	79.52	100.00			
Hoffler Seed Co.	1	75.0	39.39				100.00
Wertz Seed Co.	1	80.0	31.52				100.00
Wholesaler unknown	10	80.0	48.25	10.52	21.05	10.52	59.90

¹ Estimate of stand compared with 100 per cent as best.
² Stand count in fall and again in spring, showing amount of decrease.

We appreciate the fact that in occasional instances a sample of seed taken from a local dealer and represented to have been secured from a certain wholesaler or jobber may in reality have come from some other source, so that this data may indicate that a firm is handling a certain amount of imported seed when in reality it may have handled no imported seed at all. However, when a considerable number of samples reported to have been secured from a particular wholesaler are shown to have been imported and to have winter killed almost completely, the evidence that unadapted, imported seed is being sold by such a firm is rather convincing.

Representatives of most of the wholesaling companies selling seed in Iowa were at Ames during the summer of 1925 to view these field

plantings. We believe that in the past many firms which have handled imported seed have not appreciated the serious losses resulting to Corn-Belt farmers. We are convinced that many—in fact, most—of the local dealers who sold imported seed or blends containing imported seed did so unknowingly. In turn, the smaller wholesalers who supplied a certain amount of this seed did not suspect that it was not native. I can see no way of overcoming this condition other than by requiring that such seed be stained at the time that it is imported, in this way forever labeling it as imported seed.

Reputable seedsmen realize that under the present conditions they are placed at a serious disadvantage when imported seed represented to be domestic can be offered by unprincipled competitors at a price considerably lower than they can offer the same grade of domestic.

Most of the seedsmen with whom I come in contact are men of high ideals, who realize that in conducting a seed business they are intrusted with a responsibility which is possibly not present in the same degree in any other commercial activity. There is no other industry which should be guided by higher motives, for it bears a very important relation to agriculture, the foundation upon which prosperity and civilization stand. In merchandizing the ordinary articles of commerce, if they are below the standard represented there is a loss represented by a certain per cent of the selling price. In merchandizing seeds which are not as represented the loss can not be measured in the cost of the seed alone, as it may be more than one hundred times this amount. There are only a few in the seed business to-day who are trying to turn unjust profits by a campaign of misrepresentation—selling cheap or worthless seed. But these few have done great injury, not only to agriculture but also to the seed industry as a whole by tearing down the confidence of seed-buying farmers. My fear is that the seedsmen of the country, working through their central organizations, such as the American Seed Trade Association and the American Grass Seed Dealers' Association, will not appreciate the importance and necessity of getting forcefully behind measures to overcome and correct the conditions shown to exist until forced to do so by widespread publicity given such studies as these at the Iowa station, and after the confidence of seed buyers has been lost to such an extent that years of effort will be required to regain it.

American farmers and reputable seedsmen must not be required to suffer unnecessary losses in order that a few importers and misguided or dishonest dealers may profit.

Very truly yours,

H. D. HUGHES,
 Chief in Farm Crops.

This statement goes on to say that these seeds were sold in Iowa to the farmers, and not one of them was marked as imported seeds. They were all bought for domestic seed. I want to say that it is impossible for farmers to go on and cultivate their soil with only 50 per cent of a clover stand. The result is that the farmer's clover crop is lost. The fertility of his soil goes backward when that is done for a few years, and the farm is abandoned. That is why we see all around about the Eastern States, wherever we travel, vacant homes, abandoned farms. It was clearly stated by a representative of the National Grange that whenever farmers have come to Congress and asked for any legislation, some parts of this country have opposed the legislation. It was either amended or defeated entirely. That is a very serious indictment for the National Grange to make against any part of America, and from the opposition that I find to this bill, all in the interest of a few importers, I am inclined to think that there is some truth in the statement.

I desire at this point to read a letter I received from Mr. Kellerman, of the Bureau of Plant Industry. The letter is as follows:

UNITED STATES DEPARTMENT OF AGRICULTURE,
 BUREAU OF PLANT INDUSTRY,
 Washington, March 31, 1926.

Hon. FRANK R. GOODING,
 United States Senate.

DEAR SENATOR GOODING: With reference to the possibility of injury to seed as the result of staining, it is probable that seeds that were cracked or otherwise injured might be killed by the stain employed. If this should occur, it would undoubtedly affect only a very small percentage of the seed.

In general, little, if any, injury should result from the treatment. Tests recently concluded with immersion of seed in the stain for two days—which is, of course, exceedingly severe treatment—showed practical identity in germination with and no loss in vigor over similar seed not treated.

Very truly yours,

K. F. KELLERMAN,
 Associate Chief of Bureau.

Mr.-COPELAND. Mr. President—
 The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from New York?

Mr. GOODING. I yield to the Senator from New York.

Mr. COPELAND. Would not the passage of the bill result in practically excluding all foreign seed?

Mr. GOODING. Not at all.

Mr. COPELAND. Would not the very fact that seed had to be stained result in the practical ostracism, if I may use that term, and rejection of it?

Mr. GOODING. Not at all. It will merely give, to my mind, a standing to foreign seed that it does not have at the present time. I want to say to the Senator that seed houses now are making affidavits that they are not selling any foreign seed. The Senator does not understand how serious this matter has been and the great losses that have come to the American farmer through buying such seed. It will give foreign seed that is adaptable and that is only stained 1 per cent an opportunity to be sold by seed men to farmers, and enable them to say to the farmers, "This seed is adaptable for use in this country." I have not had any demand for the passage of the bill from the West at all. It has all come from the East, from the agricultural colleges of the East. A representative of the Agricultural College of Michigan and a representative from Ohio and another from Indiana came to Idaho last summer, accompanied by men representing farm bureaus, and pleaded with the people of the West to grow more pure seed, realizing the danger there was in the continuation of the use of seed that is unadaptable.

I want to say to the Senator, because the question will more than likely be raised, that the seed will not be injured if it is stained. I have a letter from the Department of Agriculture in which they advise that they had a test made where the seed was soaked in the stain for two days, and germination was equally as good as that of seed that had not been stained at all. The letter said that the only loss would be occasionally from a seed being cracked, and that is so small that I wonder the question is even raised at all.

Mr. BRUCE. Mr. President—

Mr. GOODING. I yield to the Senator from Maryland.

Mr. BRUCE. I want to ask the Senator just a question. I want to vote right on every measure relating to the promotion of the interests of agriculture. Has the present Secretary of Agriculture given his approval to the bill?

Mr. GOODING. Yes. The bill was prepared by the Department of Agriculture. The Secretary's letter of approval accompanied the report of the bill, and it has been brought about after years of experience.

Mr. BRUCE. Was the bill unanimously approved by the Committee on Agriculture and Forestry?

Mr. GOODING. Yes; it was reported out from the Committee on Agriculture and Forestry unanimously. I wish to say to the Senator from Maryland that I placed in the Record a telegram from the farm bureau federation of his State asking for the passage of the bill. I assume that all the farmers of America are in favor of the bill, and yet they are going to be denied this legislation.

Mr. WILLIAMS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Missouri?

Mr. GOODING. I yield.

Mr. WILLIAMS. I am in favor of the bill. I would like to interpose a question to the Senator from Utah [Mr. KING]. He raised the question a moment ago as to court action. It seems to me court action is provided for by the provision of the bill at the top of page 3.

Mr. KING. Mr. President, I have had no opportunity to read the bill except casually, and I was merely suggesting to the Senator from Idaho the matter of review of the Secretary's rulings, so that he could discuss it before he concluded his address.

Mr. WILLIAMS. I have looked at that feature of the bill and think it is properly safeguarded and that appropriate court action is provided for.

Mr. GOODING. I think that is always provided for in any legislation. This would be an exception if it did not provide for it, and I thought of course that fact was generally understood. Everyone in America has the right of appeal to the courts on any matter. But I say again if in little matters like this we can not accept the decision of the Department of Agriculture, the opinion of the agricultural colleges of the country, and the demand of the farmers themselves for the legislation, then there is not much hope for the American farmers so far as this Congress is concerned, it seems to me.

I offer for printing in the Record an affidavit and letter from Northrup, King & Co., of Minneapolis, Minn., in which they show they are not handling imported seed. They have been driven to do that simply because the farmers are not going to

buy any seed unless they know the country of origin or where it was grown and produced.

The PRESIDING OFFICER. Without objection, the affidavit and letter will be printed in the Record as requested.

The affidavit and letter are as follows:

NORTHRUP, KING & Co.,
Minneapolis, Minn.

Affidavit

C. C. Massie, being duly sworn, states that he is president and general manager of Northrup, King & Co., seedsmen, Minneapolis, Minn., and that Northrup, King & Co. has neither bought nor sold any imported red-clover seed during either 1924, 1925, or 1926, and has dealt only in seed grown in the northern part of the United States.

C. C. MASSIE.

Subscribed and sworn to before me this 31st day of March, 1926.

JOHN E. LEDBETTER,

Notary Public, Hennepin County, Minneapolis, Minn.

My commission expires March 7, 1929.

MINNEAPOLIS, MINN., March 30, 1926.

Hon. FRANK R. GOODING,

United States Senate, Washington, D. C.

DEAR SIR: As a matter of possible interest, we are inclosing copy of a letter addressed to Secretary Jardine, which makes clear our position with reference to the handling of imported seed, and also with regard to seed-staining legislation. As we believe you know, we handle nothing but domestic-grown red-clover seed, practically all of which we buy in the States of Minnesota, Wisconsin, and Idaho.

We regret to note the present situation with regard to legislation of this character, as we assume it means that no action will be taken at the present session of Congress. However, if the matter should come up for definite action in the future, as it, no doubt, will, it is our opinion in the light of our present knowledge that if any imported seed is to be stained that it should all be so identified if any practical good is to be accomplished.

Yours very truly,

NORTHRUP, KING & Co.,
L. M. KING,

Vice President and Treasurer.

Mr. GOODING. It is freely admitted by officials of the Department of Agriculture that this country has lost not only hundreds of millions of dollars through loss of fertility of the soil in not being able to get a good catch of alfalfa or clover seed, but that it means a loss of billions of dollars. I wonder why the Government has neglected such an important matter, important to the Government itself as well as to the farmers themselves, so long? Why should it not make an investigation of what seed is adaptable for use?

Mr. President, I do not want to take too much of the time of the Senate, as I want to see this bill passed during the morning hour. So I yield the floor.

Mr. WADSWORTH. Mr. President, I realize that it is exceedingly difficult to hold the attention of the Senate or any considerable number of Senators during the lunch hour, so with an understanding of that limitation I shall be brief in my observations concerning the bill.

In the first place, let me say that I have no objection whatsoever to that provision of the bill which permits the Secretary of Agriculture to stain or otherwise label every imported seed which in his judgment he finds to be inadaptable for use in this country. I think that is a wise provision. I shall be glad to support it as contained in the bill or in any separate measure.

The feature of the bill to which I desire to call attention is that which provides in mandatory fashion that all alfalfa seed and all red-clover seed imported into this country, whether adaptable or not, must be stained. I have yet to hear why such a drastic measure is regarded as necessary. Frankly, I fear it, if enacted into law, from the standpoint of the farmer himself. Let me say to my friend the Senator from Idaho that I have not heard from any importers about the bill. It is true that I have heard from some of the farm bureaus and the grange and understood that they are in favor of it, but frankly I wonder if they understand the significance of that feature of it to which I have referred. I think I know how that feature would affect me were I to encounter stained seed at a seed store. I think I would not buy it. The fact that a stain is put upon it is a mark of suspicion, of course. I anticipate that if the bill becomes a law, whatever seed is imported into this country, although it may be the most extraordinarily good seed obtained the world over, will not be purchased if it is stained.

To my mind it is perilously close to an embargo, so far as its effect is concerned, and I do not want to see an embargo laid against the importation of foreign seeds. I am more than

willing to have them tested; I am more than willing to have them passed upon as to their adaptability and branded accordingly if they prove to be inadaptable; but I think to enact this drastic provision which will compel the staining by some artificial color of all seeds of these two varieties that may be imported into the United States, whether it be from Canada or from Europe or Asia Minor or Mexico, is unwise from the farmer's own standpoint. I believe there have been many occasions in the past, in fact I know of them, where very valuable seeds have been brought from foreign countries, seeds that have been developed under peculiar conditions of climate and soil and which instantly found a peculiar and valuable use in the United States. I know that is true of alfalfa. I have purchased it and used it myself. But I doubt if I would purchase it if it was pink. It is a human question the Senator is up against in that matter.

Mr. GOODING. The Senator must understand that they are not importing Italian seed from Italy alone. They are sending it here from other countries and then mixing it with other seeds. Seed that ought to be branded red is mixed with seed from other countries. I am sure, so far as other countries are concerned, they would want to have their seeds branded. If it is adaptable for use and only has a light stain, it would not be hard for the Senator to understand if he were a farmer and buying alfalfa or clover seed. I am sure it will be helpful. On the other hand, if the Senator or the Senate would just let the farmers have what they want once in a while without being their advisers all the time and trying to protect them from themselves we would get along much better in the country. That is what the farmer is going to demand, too.

Mr. WADSWORTH. I appreciate the implied reprimand coming from the Senator from Idaho. If I were convinced that all the farmers he talks about had read the bill and understood the significance of compelling every seed brought into this country to be stained, and still were for it, I might sit down right now. But I doubt if they understand it, and this is not the only legislation proposed in the interest of the farmer that the farmers have not understood.

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

Mr. WADSWORTH. Certainly.

Mr. LENROOT. Is it the Senator's view that the farmers are now buying foreign seed, thinking that it is domestic seed?

Mr. WADSWORTH. Yes; upon occasion, possibly.

Mr. LENROOT. And if they knew it was foreign seed they would not purchase it? Is that the view of the Senator?

Mr. WADSWORTH. Oh, no. I think plenty of farmers are more than willing to purchase foreign seed, but I think it a trait of human nature that if we stain any seed, foreign or domestic, and then put it on sale, the retail people will not buy it.

Mr. LENROOT. If that was in the nature of a certificate of good quality, does not the Senator think they would buy it?

Mr. WADSWORTH. I do not think it would be taken in the nature of a certificate of good quality.

Mr. LENROOT. It would have to be, if they understood the provision.

Mr. WADSWORTH. Yes; if they understood it. We could stain lots of articles a curious and gaudy color on the theory that they were good articles, but they would not sell.

Mr. GOODING. I think the Senator knows that under our tariff act all articles must be branded very plainly in English showing the country of origin. Does the Senator think that is prejudicial against foreign goods shipped into America?

Mr. WADSWORTH. No; I do not. It does not change the appearance or the evident quality of the goods. The Senator would not go out and buy butter if it were stained green.

Mr. GOODING. Of course, we do not do unreasonable things; and that is not the purpose of the bill. It is merely to protect the farmer so he may know what he is buying. I can not agree with the Senator so far as the interests of the importers are concerned, because I want to say to him that every seed house in America is going to be forced to make an affidavit, such as the seed house at Minneapolis has made, before the farmers are going to buy their seeds.

Mr. WADSWORTH. I have no objection to their making affidavits. I am heartily in favor of pure seed laws. I know that my State has an excellent pure seed law, but occasionally bad seed does get in. In many of the instances that I have known of in my own experience the domestic seed has slipped through in some fashion and gotten into the hands of the man who sows it upon the soil. Every effort we can make to prevent the sale of impure seed and of inadaptable seed should be made; but I do not think we ought to put a brand of suspicion upon good seed, whether it is domestic or foreign. I fear that

this mandatory provision in the bill will ultimately have the effect of stopping importation and thereby increasing the price of seed to the farmers. The effect of this provision, in my judgment, would be an embargo. That is why I am opposed to that single feature of the bill. Therefore, Mr. President, I offer an amendment, on page 2, commencing in line 5, after the word "hereafter," to strike out the remainder of line 5, to strike out all of lines 6, 7, 8, 9, and 10, and on line 11 to strike out down to and including the word "and," following the word "origin," so that if thus amended the proviso would read as follows:

Provided further, That hereafter if the Secretary of Agriculture after a public hearing has been accorded interested parties shall determine that seed of red clover or alfalfa from any country or region is not adapted for general agricultural use in the United States, he shall publish such determination, and after three months thereafter at least 10 per cent of the seed of each bag or package of such seed shall be stained a red color—

The bill if so amended would take care of the inadaptable seed, but would not go to the extent and length of compelling the staining of all seed imported into the United States.

Mr. BINGHAM. Mr. President, will the Senator yield to me?

Mr. BUTLER. Mr. President—

The PRESIDING OFFICER. Let the Chair first have stated the amendment proposed by the Senator from New York. The Secretary will read the amendment.

The CHIEF CLERK. On page 2, line 5, it is proposed to strike out the words "before entry into the United States seed of alfalfa or red clover or any mixtures of seeds containing 10 per cent or more of either or both of these seeds shall be colored or marked in such manner as the Secretary of Agriculture may prescribe, and such colors or marks shall, where practicable, indicate the country or region of origin; and," so as to make the proviso read:

Provided further, That hereafter if the Secretary of Agriculture after a public hearing has been accorded interested parties shall determine that seed of red clover or alfalfa from any country or region is not adapted for general agricultural use in the United States, he shall publish such determination, and after three months thereafter at least 10 per cent of the seed of each bag or package of such seed shall be stained a red color, the shade of such color to be designated by the Secretary of Agriculture.

Mr. WADSWORTH. That leaves the inadaptable seed provision undisturbed, and that, I understand, is the principal object of this bill.

Mr. BINGHAM and Mr. BUTLER addressed the Chair.

The PRESIDING OFFICER. Does the Senator from New York yield; and if so, to whom?

Mr. WADSWORTH. I yield first to the Senator from Connecticut.

Mr. BINGHAM. Mr. President, there has been imported into Connecticut and into various other parts of New England quite frequently seed from southern climes, particularly clover seed, which is easily winterkilled. The loss in New England from the sowing of such seeds from southern climes is very serious. When once it gets into the ground the damage is done, because the seeds become winterkilled in the cold winters of New England.

However, the question I should like to ask the Senator from New York is whether his amendment, which only relates to seeds which are not adapted to general agricultural use, will cover the peculiar needs of that section of the country which I have the honor, in part, to represent. It has been quite frequently noticed on this floor, more particularly by the Senator from New Hampshire at times, that proposed agricultural legislation is not intended to benefit the farmers east of the Allegheny Mountains or east of the Hudson River, and that the needs of the farmers of New England have never been taken into consideration in such legislation. Here is a bill, Mr. President, which it seems to us in Connecticut is peculiarly designed to protect us against the spending of large amounts of money in the cultivation of the soil and sowing seed in it which gets winterkilled, with consequent large losses to the farmers. I am anxious that this bill shall be so framed as to protect the farmers against that kind of a loss. It seems to me that the amendment offered by the Senator from New York will not apply in this case; and I inquire whether he thinks the words "general agricultural use" would apply?

Mr. BUTLER. Mr. President—

Mr. WADSWORTH. Will the Senator allow me to answer the Senator from Connecticut?

Mr. BUTLER. Certainly.

Mr. WADSWORTH. Mr. President, my own judgment is that it would be better to leave the word "general" out of the

bill and give the Secretary of Agriculture a greater discretion than would be implied by the use of the word "general."

Mr. BINGHAM. Will the Senator add that to his amendment?

Mr. WADSWORTH. That will be an entirely separate question and I can not add it to my amendment. My amendment proposes to strike out the mandatory provision for staining foreign seed, whether they are adaptable or not. I want the inadaptable seed stained. I think the bill should be drawn so as to give the Secretary of Agriculture the right to stain it, and published his findings, even though its inadaptability is confined to but one region of the country, instead of making him reach the conclusion that they are nowhere adaptable and therefore unfit for general agricultural use. I think the bill is a little too loose in that regard. I sympathize with the situation that the Senator from Connecticut describes as existing in New England—and I have known a similar situation to exist in other parts of the country—but I have made no move whatsoever to disturb those provisions of the bill which relate to inadaptable seed. I should like to have them strengthened.

Mr. BUTLER and Mr. GOODING addressed the Chair.
The PRESIDING OFFICER. Does the Senator from New York yield; and if so, to whom?

Mr. WADSWORTH. I yield to the Senator from Massachusetts, who first rose.

Mr. BUTLER. Mr. President, I desire merely to make a statement with reference to my position on this bill, not to ask a question; and I yield to the Senator from New York, of course, if he desires to proceed.

Mr. WADSWORTH. I have finished.

Mr. BUTLER. Mr. President, I had the temerity some time ago, at the beginning of the session, to introduce a bill on this subject. It was referred to the Committee on Agriculture and Forestry and considered by that committee, and in connection with the bill which the Senator from Idaho [Mr. GOODING] introduced. The two bills were heard together, and, as the result of the consideration of the Committee on Agriculture, the bill which is known as the Gooding bill was reported to the Senate.

I am in favor of this proposed legislation. I think possibly the form of the bill which I introduced at the request of certain gentlemen who are interested in this subject was not in all particulars desirable, in that the machinery provided was not necessary, it seemed to me, to produce the desired result; and I was very glad to join with the Senator from Idaho in supporting the bill which he has presented and which has been reported from the Committee on Agriculture, except in one particular. That is this: The criticism has already been made that in this bill it is provided that the Secretary of Agriculture shall have arbitrary power to stain the seed, and it seems to me in this respect this bill ought to be qualified.

I do not know that I want to go so far as the Senator from New York has gone in striking out that provision of the bill. I think there is value in staining seeds that come from the other side, but I think that ought not to be done until there is some inspection, some examination on the part of the Secretary of Agriculture, an inspection and examination such as will admit of the expression of opinion on the part of those who have an interest in introducing such seed. Therefore I would suggest an amendment to the bill in section 1, on page 2, line 8, by striking out the word "shall" and inserting the words "may, after a hearing has been accorded interested parties." That will give to the Secretary of Agriculture the right, after such a hearing and after such representations as interested parties desire to make, the opportunity to stain the seed, and it seems to me that qualification should appear in this measure.

Mr. LENROOT. Mr. President, if the Senator will yield, in what line does the Senator propose the amendment to come in?

Mr. BUTLER. The amendment I suggest would come in on line 8, page 2, to strike out the word "shall" and insert the words "may, after a hearing has been accorded interested parties."

Mr. COPELAND. Mr. President—

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from New York?

Mr. BUTLER. Certainly.

Mr. COPELAND. Mr. President, I was going to suggest to my colleague [Mr. WADSWORTH] that he might modify his proposed amendment to some extent so as to cover the point raised by the Senator from Connecticut [Mr. BINGHAM]. If the amendment suggested by my colleague were accepted, I think it would be well to add at the end of the paragraph the language now found in lines 9, 10, and 11, beginning with the word "and" in line 9, page 2, down to line 19, which reads:

And such colors or marks shall, when practicable, indicate the country or region of origin.

Of course, the Senator from Connecticut and the Senator from Massachusetts, living in a northern climate, are anxious to have seed which will mature there. So if the staining is done at all, it might be done in such way as to indicate the country or region of origin, and then insure the purchase of seed which would mature in the North. Then the criticism of the Senator from Connecticut would be fully answered, the amendment proposed by my colleague would not be weakened in the least, and the excellent law would not be damaged. I am anxious to see it enacted, modified, if need be, to meet the objection of my colleague.

Mr. WADSWORTH. That would require a separate amendment; I could not offer them together.

Mr. LENROOT. Mr. President, I do not believe that the amendment proposed by the Senator from New York should be adopted. It seems to me that every farmer in the United States has a right to know when he proposes to purchase seed of this character whether it is domestic seed or foreign seed. If the amendment should be adopted it would afford an opportunity for misrepresentation without any penalty, and the farmers could be imposed upon by representing that the seed purchased was domestic seed when in fact it was foreign seed.

So far as the coloring is concerned, it seems to me that it merely amounts to a certificate, first, that the seed is of foreign origin and the color will indicate the country of origin. The color, if not red, will further indicate that in view of the department the seed is adaptable for use in the United States.

It seems to me that it clearly is in the interest of honest dealing with the farmers of the United States to give them greater opportunity of knowing what they are buying when they desire to purchase seed.

With regard to any appeal, I will say the present law has no provision for an appeal, and it seems to me, in a case of this character where there is not a right to import foreign seed, there is no practical way in which an appeal can be taken to the courts for a determination of the question. I hope the bill will pass as it stands.

Mr. FERRIS. Mr. President, I shall only take a very few moments of the time of the Senate and will not attempt any detailed discussion of the bill, for it has already been presented rather thoroughly.

I am a member of the committee and attended the hearings held on this question. I think I heard all that was contributed at that time on the Gooding bill and on the bill offered by the Senator from Massachusetts. My training leads me to have a great deal of regard for those who are in a position to give information to the people of this country. The agricultural colleges have occupied my attention and consideration for many years, and, so far as I can learn, they have uniformly supported and advocated the provisions of this bill. On such a question I have to look to somebody to advise me, for I am not an expert. I am a farmer—a losing farmer—but nevertheless I believe that I must look to those who claim to know and who have information on the subject. I can not find that any agricultural college has done other than to give a favorable report on the pending bill and to express the hope that it may be passed.

I have profound respect for the agricultural colleges of this country. If they are not worthy of respect, we should discontinue them and adopt something that is better. The farmers of this country can not get enlightenment very fast even through the agencies of the agricultural college. They are only partial. Then, again, in the hearings Mr. Gray, of the American Farm Bureau Federation, said:

This measure, as we understand it, Senator Gooding—as we name it, the Gooding-Ketcham bill—has been sent to each and every one of the State farm bureaus in the American Farm Bureau Federation and to a great number of the county men who have written in for it. To date we have no adverse report on it at all. If necessary, I have a sheaf of letters and resolutions, running all the way from Virginia out as far west as your own State, Senator, here in my hands, all of which corroborate the position that the American Farm Bureau Federation has taken.

I entertain no fear similar to that of the Senator from New York. I can not help but believe that the farmer is fairly intelligent. I can not find any evidence that the coloring of the seed would create prejudice whereby he would refuse to purchase the seed. As we Senators have to learn from somebody, as we have to take somebody's advice, it does seem to me that what the agricultural colleges of this country and the farm organizations of this country say they want and would like to try is worthy of consideration.

I could not for a moment put up my own opinion against the appeals of the farm organizations and of the agricultural colleges; and I also have the profoundest respect for the Department of Agriculture. What is the department for? What service is it to render us? How is it possible for the Senators assembled here, however wise they may be, unless they are experts in farming, unless they are experts in handling seed, to be sure of their opinions unless they do pay deference to this advice?

In the State of Michigan I know from my own observation and from my own investigations as to what some of these impure, low-grade seeds have done; and you can not tell their quality merely by looking at them. You can not tell the Italian seeds from any other seeds just by looking at them. We do know that in Michigan they are an absolute failure. We do know that some of these seeds are suitable for use in some States.

I hope that neither amendment will be adopted. I hope that for once we will have sufficient confidence in the farmers, in the agricultural colleges, and in the Agricultural Department to give the farmers a chance. That is all that I ask. That is all that I appeal to Senators for.

I have done just what every other Senator has done: I have tried to get information on this subject, and I have tried to get it from authentic sources. In the hearings I was convinced that if there was ever a worth-while bill, a bill that would really render a practical service to the farmers of this country, the Gooding bill would do it. I presume it is not a cure-all; I presume it is not a panacea; but it is a step in the right direction. Why not take it without too many limitations and give the farmers and those who want pure seed an opportunity to get it?

Mr. BINGHAM. Mr. President, I hope the amendment offered by the Senator from New York will not prevail. It seems to me that there might be cases where the seed from foreign countries was quite suitable for planting in those parts of the United States that do not have the heavy frosts that we have in New England. I hope the bill as drawn will pass.

The trouble lies in the fact that the larger distributors of seeds frequently sell seeds as suitable for use in New England which are from southern climes and not suitable. At present there is no way in which these can be distinguished from seeds grown in this country which we can use profitably in New England. Often the town dealer, although anxious to protect his customers, is an innocent offender, even though he has used due diligence in buying his stock of seeds from a supposedly reliable distributor. The loss from buying such seeds is tremendous, and the offer of some dealers to replace such seeds covers only an insignificant part of the real loss.

I hope the bill will pass as originally presented.

Mr. WADSWORTH. Mr. President, may I ask the Senator a question?

Mr. BINGHAM. Certainly.

Mr. WADSWORTH. Under this bill, even if my amendment were adopted, all seed that comes into the United States would be tested in order to find out whether it is adaptable for use in this country. Now, if it is adaptable for use in this country, what is the harm of admitting it?

Mr. BINGHAM. The Senator will realize that it might be adaptable to some parts of the country and not adaptable to other parts.

Mr. WADSWORTH. But the Secretary of Agriculture under this bill, as I understand, can stain it red if it is inadaptable to any important part of the country.

Mr. GOODING. Mr. President, will the Senator let me answer that question? I want to say to the Senator that the importers themselves have an organization in which they passed resolutions to the effect that they would not import any Italian seed. It was found afterwards that some of them broke over and did import it and shipped it from countries other than Italy. The result is that that seed gets mixed in. If all the importers were honest—and a vast majority of them are—very likely could get along without this bill.

Mr. WADSWORTH. But this bill, with the inadaptable-seed provision in it, will stop that.

Mr. GOODING. It will not stop it, because they will ship their seed in reality from Italy, and it will come in here from some country other than Italy.

Mr. WADSWORTH. But it will be caught at the border.

Mr. GOODING. It can not be caught at the border, because you can not distinguish it at all from other seeds.

Mr. WADSWORTH. If it can not be caught at the border, the bill is not any good.

Mr. GOODING. Yes; it is, because it will all be stained if this bill goes through.

Mr. WADSWORTH. It can not be stained until after it is caught at the border, can it? It can not be stained in the country of origin.

Mr. GOODING. But if this bill passed, France and Chile and all other countries that are supposed to have seed that is fairly adaptable to some parts of this country will see that their seed is protected. They will not permit seed to be shipped into their countries and shipped out as French seed or Chilean seed.

To my mind, any amendment would be very unfortunate. I hope the bill will pass.

Mr. WADSWORTH. I understand that the Senator does; but if the Secretary of Agriculture is authorized to examine all the seed that comes into this country, and if, when he has examined it and finds that some of it is unadaptable, he is permitted to state that fact, has he not covered the situation?

Mr. GOODING. Not at all.

Mr. WADSWORTH. I am endeavoring to get some information from the Senator from Connecticut.

Mr. BINGHAM. Mr. President, it seems to me, in reply to what the Senator from New York has said, that while in the beginning there might be difficulty in persuading the farmers to buy seed of a strange color, as soon as they learned that this color had nothing to do with the ability of the seed to germinate, but merely gave information as to the country of origin, even if it cost a little more, they would eventually be glad to pay that additional cost as insurance against their having to spend a great deal of time in cultivating the soil and planting seed which would be winter-killed and would not germinate.

I think that the reference made by the Senator from Idaho to the placing of the name of the country of origin on manufactured articles applies here. There are some people who will not buy articles that are labeled as being made in countries which they do not like. They eventually get over their prejudice when they find that those articles are perfectly good. It does not seem to me that the clause objected to by the Senator from New York will seriously harm the farmers of this country for a very long period of time. On the other hand, it seems to me that this bill, if passed, will eventually benefit the farmers in all parts of the country.

Mr. COPELAND. Mr. President, I should like to ask the Senator from Connecticut whether he would feel any more kindly toward the amendment offered by my colleague if the words were added which I suggested:

and such colors or marks shall, where practicable, indicate the country or region of origin.

Would he feel more kindly disposed toward the amendment if those words were added?

Mr. BINGHAM. Those words are in the original bill. They are part of the protective nature of the original bill.

Mr. COPELAND. The point is that if these words were added the Secretary of Agriculture then would be permitted to stain the seed coming from a foreign country, and he would use a distinctive stain so as to indicate the country of origin, which, if done, would give the protection which the Senator from Connecticut has sought.

Mr. LENROOT. Mr. President, may I suggest that that is what the bill provides now?

Mr. COPELAND. It provides now that it shall be done.

Mr. LENROOT. Yes.

Mr. COPELAND. The amendment offered by my colleague is to make it permissive.

Mr. LENROOT. Oh, no! That is only if he stains them red. He would not do any staining at all unless it is red.

Mr. COPELAND. I suppose there are shades of red.

Mr. LENROOT. If this amendment is adopted, the only thing then will be the practical condemnation of bad seed under the bill.

Mr. COPELAND. Perhaps that is the purpose of the bill.

Mr. LENROOT. That is one purpose.

Mr. COPELAND. If seed is stained, in all probability it does mean its condemnation.

Mr. LENROOT. Surely; if it is stained red.

Mr. COPELAND. And it means the exclusion of any foreign seed, and a higher price to the farmer for the seed that he does buy.

The PRESIDING OFFICER (Mr. GLASS in the chair). The question is on the amendment proposed by the Senator from Massachusetts [Mr. BUTLER].

Mr. WADSWORTH. May the amendment be stated again, Mr. President.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. The Senator from Massachusetts offers the following amendment:

On page 2, line 8, strike out the word "shall" and insert "may, after hearing has been accorded interested parties."

The amendment was rejected.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from New York [Mr. WADSWORTH].

Mr. WILLIS. Let it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. The senior Senator from New York offers the following amendment:

On page 2, line 5, after the word "hereafter," it is proposed to strike out down to and including the word "and" in line 11, so that, if agreed to, the paragraph would read:

Provided further, That hereafter if the Secretary of Agriculture after a public hearing had been accorded interested parties shall determine that seed of red clover or alfalfa from any country or region is not adapted—

And so forth.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was rejected.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PRESIDENTIAL APPROVALS

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that the President had approved and signed the following acts and joint resolution:

On April 2, 1926:

S. 1876. An act providing for the sale and disposal of public lands within the area heretofore surveyed as Booth Lake, in the State of Wisconsin.

On April 3:

S. 989. An act to amend section 129 of the Judicial Code relating to appeals in admiralty cases; and

S. 1169. An act authorizing the Secretary of the Interior to convey certain lands in Powell town site, Shoshone reclamation project, Wyoming, to Park County, Wyo.

On April 5, 1926:

S. 2519. An act to enable the board of supervisors of Santa Barbara County to maintain a free public bathing beach on certain public land; and

S. J. Res. 59. Joint resolution authorizing the Secretary of War to lend tents and camp equipment for the use of the reunion of the United Confederate Veterans, to be held at Birmingham, Ala., in May, 1926.

PERMANENT ASSOCIATION OF INTERNATIONAL ROAD CONGRESSES (S. DOC. NO. 90)

The PRESIDING OFFICER (Mr. GLASS in the chair) laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on Post Offices and Post Roads and ordered to be printed:

To the Congress of the United States:

I transmit a report from the Secretary of State upon the desirability of providing for membership on the part of the United States in the Permanent Association of International Road Congresses. The views expressed by the Secretary of State are concurred in by the Secretaries of Agriculture and of Commerce. I recommend, therefore, that the Congress, preferably by joint resolution, authorize an appropriation of not exceeding \$3,000 per annum to enable the United States to accept membership in this important association, and such further amounts as may be necessary for the expenses of participation in the meeting of such congresses and of the executive committee thereof.

CALVIN COOLIDGE.

THE WHITE HOUSE, April 5, 1926.

CLAIM FOR THE DEATH OF REGINALD ETHELBERG MYRIE (S. DOC. NO. 91)

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed:

To the Congress of the United States:

I transmit herewith a report from the Secretary of State regarding the claim presented by the Government of Great

Britain on behalf of Mr. David S. Myrie for compensation on account of the death of his son, Reginald Ethelbert Myrie, in the Panama Canal Zone on February 5, 1921. I recommend that the Congress, as an act of grace and without reference to the legal liability of the United States in the premises, authorize the appropriation of a sufficient amount to effect a settlement of this claim in accordance with the recommendation of the Secretary of State.

CALVIN COOLIDGE.

THE WHITE HOUSE, April 5, 1926.

(Inclosure: Report from the Secretary of State.)

CLAIM FOR THE DEATH OF SAMUEL RICHARDSON (S. DOC. NO. 92)

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed:

To the Congress of the United States:

I transmit herewith a report by the Secretary of State requesting the submission anew to the present Congress of the matter of a claim against the United States presented by the British Government for the death on November 1, 1921, at Consuelo, Dominican Republic, of Samuel Richardson, a British subject, as a result of a bullet wound inflicted presumably by a member or members of the United States Marine Corps, which formed the subject of a report made by the Secretary of State to me on January 11, 1924, and my message to the Congress dated January 14, 1924, which comprise Senate Document No. 20, Sixty-eighth Congress, first session, copies of which are furnished for the convenient information of the Congress.

Concurring in the recommendation made by the Secretary of State, that in order to effect a settlement of this claim the Congress, as an act of grace and without reference to the legal liability of the United States in the premises, authorize an appropriation in the sum of \$1,000, I bring the matter anew to the attention of the present Congress, in the hope that the action recommended may receive favorable consideration.

CALVIN COOLIDGE.

THE WHITE HOUSE, April 5, 1926.

(Inclosures: Report by the Secretary of State, with inclosures.)

THE CALENDAR

The PRESIDING OFFICER. The calendar under Rule VIII is in order.

Mr. BAYARD. I ask unanimous consent that we start with Order of Business No. 470, where we left off at the last call on the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. JONES of Washington. The Senator from Nebraska [Mr. NORRIS] expected that we would start at the first of the calendar. There is a bill near the beginning of the calendar in which he is very much interested, and I must object to the request.

The PRESIDING OFFICER. Objection is made, and the clerk will start with the beginning of the calendar.

Mr. SMOOT. Mr. President, I ask that Orders of Business 3, 4, 5, 6, 7, 8, 30, and 55 be passed over.

The PRESIDING OFFICER. Without objection, they will be passed over.

The bill (S. 2526) to extend the time for the refunding of taxes erroneously collected from certain estates was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 2336) to reimburse Commander Walter H. Allen, civil engineer, United States Navy, for losses sustained while carrying out his duties was announced as next in order.

Mr. BINGHAM. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

JOSEPH F. BECKER

The bill (H. R. 7348) for the relief of Joseph F. Becker was announced as next in order.

Mr. SMOOT. I would like to have the Senator from Nebraska make an explanation of that.

Mr. NORRIS. Mr. President, at the last session of Congress a bill identical with this one was unanimously reported from the Committee on Naval Affairs and passed the Senate. It went to the House, received a unanimous report from the House committee, and was placed on the calendar, but was not reached in the House. This year the bill has passed the House with a unanimous report from the committee, has been reported by the Senate committee unanimously, and is now before us. I can go

into all the details relating to the matter, but I do not want to take up the time.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS PASSED OVER

The bill (S. 1859) for the relief of Patrick C. Wilkes, alias Clebourn E. Wilkes, was announced as next in order.

Mr. SMOOT. There is no report on my file accompanying the bill. I ask that it may go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1929) to provide home care for dependent children in the District of Columbia, was announced as next in order.

Mr. SMOOT. The bill can not be considered in the limited time we have for the calendar to-day.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 2607) for the purpose of more effectively meeting the obligations of the existing migratory bird treaty with Great Britain by the establishment of migratory bird refuges to furnish in perpetuity homes for migratory birds, the provision of funds for establishing such areas, and the furnishing of adequate protection of migratory birds, for the establishment of public shooting grounds to preserve the American system of free shooting, and for other purposes, was announced as next in order.

Mr. KING. The consideration of that bill will take considerable time. Several Senators who are interested in it are not on the floor now, and I ask that it be laid aside.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 3331) for the relief of George Barrett was announced as next in order.

Mr. KING. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1459) for the relief of Waller V. Gibson was announced as next in order.

Mr. KING. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

The joint resolution (S. J. Res. 51) providing for the completion of the Tomb of the Unknown Soldier in the Arlington National Cemetery was announced as next in order.

Mr. KING. Let that go over.

The PRESIDING OFFICER. The joint resolution will be passed over.

The bill (H. R. 306) to amend the second section of the act entitled "An act to pension the survivors of certain Indian wars from January 1, 1859, to January, 1891, inclusive, and for other purposes," approved March 4, 1917, as amended, was announced as next in order.

Mr. SMOOT. I want to offer an amendment to the bill. I have no objection to the measure, but I think it ought to be amended. There are only a few minutes left to-day for the consideration of the calendar, so I will have to ask that it go over to-day.

The PRESIDING OFFICER. The bill will be passed over.

APPEALS IN ADMIRALTY CASES

The bill (H. R. 6536) to amend section 129 of the Judicial Code, relating to appeals in admiralty cases, was considered as in Committee of the Whole.

The bill had been reported from the Committee on the Judiciary with an amendment, on page 1, line 10, to strike out the words "and service of a copy of such decree upon the adverse party" and to insert the words "of the decree: *And provided further*, That within 20 days after such entry the appellant shall give notice of the appeal to the appellee or appellees," so as to make the bill read:

Be it enacted, etc., That section 129 of the Judicial Code is hereby amended by adding thereto the following:

"In all cases where an appeal from a final decree in admiralty to the circuit court of appeals is allowed, an appeal may also be taken to said court from an interlocutory decree in admiralty determining the rights and liabilities of the parties: *Provided*, That the same is taken within 15 days after the entry of the decree: *And provided further*, That within 20 days after such entry the appellant shall give notice of the appeal to the appellee or appellees; but the taking of such appeal shall not stay proceedings under the interlocutory decree unless otherwise ordered by the district court upon such terms as shall seem just."

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

GEORGE HORTON

The joint resolution (S. J. Res. 2) for the relief of George Horton was considered as in Committee of the Whole and was read, as follows:

Resolved, etc., That the sum of \$12,300 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be paid to George Horton, formerly consul general of the United States at Smyrna, Turkey, to compensate him for the total loss of his personal effects contained in the American consulate general in Smyrna at the time of the burning and sacking of that city in 1922.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SILVER PURCHASES UNDER THE PITTMAN ACT

The bill (S. 756) directing the Secretary of the Treasury to complete purchase of silver under the act of April 23, 1918, commonly known as the Pittman Act, was announced as next in order.

Mr. WILLIS. That bill will require considerable discussion and take considerable time, and I therefore suggest that it go over.

The PRESIDING OFFICER (Mr. WATSON in the chair). The bill will be passed over.

LEVIN P. KELLY

The bill (S. 2111) for the relief of Levin P. Kelly was announced as next in order.

Mr. KING. It seems to me that this claim should go to the Court of Claims for an ascertainment of the facts.

Mr. BRUCE. The facts have been ascertained. I am not prepared to give all the facts, because I would have to refresh my memory before doing so, but a similar bill was before us last year. I do not recall whether it actually passed the Senate or not. It has been approved by the Committee on Claims and has been reported favorably.

Mr. KING. I was asking the Senator whether it had been passed upon by the Court of Claims.

Mr. BRUCE. I could not say. I would have to refresh my recollection.

Mr. KING. If it has been, I have no objection to it.

Mr. BRUCE. My colleague, Senator WELLS, introduced the bill.

Mr. KING. I suggest that it be laid aside temporarily.

The PRESIDING OFFICER. The bill will be passed over.

Mr. BRUCE subsequently said: I ask the Senate to return to Order of Business No. 209, Senate bill 2111, for the relief of Levin P. Kelly, which came up a few minutes ago and was made the subject of some inquiry by the Senator from Utah [Mr. KING]. I have refreshed my memory with regard to the facts surrounding that claim.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Senator from Maryland is recognized.

Mr. BRUCE. In this case the claimant, Kelly, was the owner of a schooner, the *John Bradley*. Naval Academy steamer No. 1 came in collision with the schooner, and the schooner was sunk, together with the cargo. A naval board of inquiry was organized, and that board came to the conclusion, as the report relating to the matter shows, that the collision was wholly the fault of the Naval Academy vessel. The board found that the value of the schooner and its cargo was \$6,240.

A bill identical with this passed at the last session of Congress. It seems to me there can be no objection to it.

Mr. KING. I shall not object to the consideration of the bill, but I do think it is a very bad precedent, because in all cases of collision we have made ample provision for trial in admiralty or before the Court of Claims. We generally relegate all claimants to the courts for the purpose of determining the amount of damages.

Mr. BRUCE. Not where they come before a naval board of inquiry. In this case the board has ascertained the damages.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole and it was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized to pay, out of any money in the Treasury not otherwise appropriated, the sum of \$6,000 to Levin P. Kelly, owner and captain of the schooner *John Bradley*, which was sunk on the 25th day of July, 1922, by Government launch No. 1, of the United States Naval Academy, through the negligence of the Government.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILL PASSED OVER

The bill (S. 2848) to amend section 24 of the interstate commerce act, as amended, was announced as next in order.

Mr. WILLIS. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

WALTER W. PRICE

The bill (S. 1803) for the relief of Walter W. Price was considered as in Committee of the Whole.

The bill had been reported from the Committee on Claims with an amendment, on line 6, to strike out "\$10,296.97, due the United States on account of the loss of postal funds and war-savings stamps resulting from the burglary and burning of said post office on March 7, 1920," and to insert "\$10,233.27, on account of the loss of postal funds and war-savings stamps resulting from the burglary of the First National Bank building on May 16, 1920," so as to make the bill read:

Be it enacted, etc., That the Postmaster General be, and he is hereby, authorized and directed to credit the accounts of Walter W. Price, late postmaster at Onelda, Tenn., in the sum of \$10,233.27, on account of the loss of postal funds and war-savings stamps resulting from the burglary of the First National Bank building on May 16, 1920.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

M. BARDE & SONS (INC.), PORTLAND, OREG.

The bill (S. 2098) for the relief of M. Barde & Sons (Inc.), Portland, Oreg., was announced as next in order.

Mr. SMOOT. I would like to have an explanation of the bill. I do not see any definite recommendations in the report.

Mr. WILLIS. I suggest that the bill be temporarily passed over without prejudice, so as not to lose time.

The PRESIDING OFFICER. The bill will be passed over.

BILLS PASSED OVER

The bill (S. 1897) to reinstate John P. Gray as a lieutenant commander in the United States Coast Guard was announced as next in order.

Mr. KING. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1747) for the relief of the estate of Henry T. Wilcox was announced as next in order.

Mr. KING. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

UNITED STATES ARMY AIR SERVICE

The bill (S. 3321) to increase the efficiency of the Air Service of the United States Army was announced as next in order.

Mr. WILLIS. This bill and the next one on the calendar are general bills of very great importance. It seems to me it is impossible to consider them in the few minutes remaining, and I suggest that they both go over.

The PRESIDING OFFICER. Senate bill 1747 will be passed over.

DISPUTES BETWEEN CARRIERS AND THEIR EMPLOYEES

The bill (S. 2306) to provide for the prompt disposition of disputes between carriers and their employees, and for other purposes, was announced as next in order.

The PRESIDING OFFICER. On the suggestion of the Senator from Ohio [Mr. WILLIS] the bill will be passed over.

HANNAH PARKER

The bill (H. R. 3624) for the relief of Hannah Parker was announced as next in order.

Mr. KING. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

PENSIONS AND INCREASE OF PENSIONS

The bill (H. R. 7906) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, etc., and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, was announced as next in order.

Mr. KING. That is a very long bill, and its consideration would take a great deal of time. I suggest that it be laid aside.

The PRESIDING OFFICER. The bill will be passed over.

CAHULLA INDIAN RESERVATION LAND

The bill (H. R. 8184) to authorize the Secretary of the Interior to purchase certain land in California to be added to the

Cahulla Indian Reservation and authorizing an appropriation of funds therefor was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

TUITION OF CROW INDIAN CHILDREN

The bill (H. R. 186) authorizing the payment of tuition of Crow Indian children attending Montana State public schools, was considered as in Committee of the Whole.

Mr. SMOOT. Will not the Senator from Montana advise the Senate why this bill is necessary?

Mr. WALSH. We have been obliged to make provision in a number of cases in the State schools for the Indian children. The schools are supported by general taxation, and, of course, the Indians contribute nothing, their lands not being subject to taxation at all.

Mr. SMOOT. Do they attend the same schools the white children attend?

Mr. WALSH. They attend the same schools.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EXTENSION OF RITTENHOUSE STREET

The bill (S. 1116) for the extension of Rittenhouse Street, in the District of Columbia, was announced as next in order.

Mr. SACKETT. The bill was reported adversely. I move that it be indefinitely postponed.

The motion was agreed to.

INDEBTEDNESS OF ITALY TO THE UNITED STATES

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which is House bill 6773.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 6773) to authorize the settlement of the indebtedness of the Kingdom of Italy to the United States of America.

Mr. SMOOT. Mr. President, I understand that the Steck-Brookhart contested-election case is to be brought up at this time. I ask the junior Senator from Iowa if that is correct?

Mr. BROOKHART. It is.

Mr. SMOOT. I ask unanimous consent that the unfinished business may be temporarily laid aside.

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

SENATOR FROM IOWA

Mr. CUMMINS. Mr. President, I desire to make an observation with regard to the matter about to be brought before the Senate. Under the circumstances, which I assume are known to every Senator in this body, I feel impelled to the conclusion that under general parliamentary law as well as under the law which is applicable in every judicial proceeding, I am not qualified to sit as a judge in the contest about to come before the Senate. I ask the Senate, therefore, to excuse me from voting upon any question which may arise during the consideration and upon the determination of the matter. I further desire, if the Senate extends me the privilege I have asked, that the order of the Senate to that effect be entered of record.

Mr. WALSH. Mr. President, will the Senator from Iowa state why he conceives himself to be disqualified from voting?

Mr. CUMMINS. I would hesitate to do that.

Mr. WALSH. I do not desire to press the question.

Mr. CUMMINS. I would rather not do it, but I can do so if the Senator from Montana insists.

Mr. WALSH. No.

Mr. ROBINSON of Arkansas. Mr. President, under the practice that prevails in the Senate we frequently excuse Senators from voting when they have requested that they be relieved from so doing. In view of the statement of the Senator from Iowa, I think he ought to be relieved from voting.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Iowa? The Chair hears none, and it is so ordered.

Mr. ERNST. Mr. President, on behalf of the Committee on Privileges and Elections, I offer the resolution which I send to the desk.

The PRESIDING OFFICER. The clerk will report the resolution.

Mr. REED of Missouri. Before that is done, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

Asherst	Edwards	Ja Follette	Shipstead
Hayard	Ernst	Leuroot	Shortridge
Irvingham	Fernald	Mckellar	Simmons
Blaise	Ferris	McMaster	Smith
Borah	Fletcher	McNary	Snoot
Bratton	Frazier	Mayfield	Stanfield
Brookhart	George	Metcalf	Stephens
Bronnsard	Gillett	Moses	Swanson
Bruce	Glass	Necly	Trammell
Butler	Goff	Norris	Tyson
Cameron	Gooding	Nye	Wadsworth
Capper	Harrell	Overman	Walsh
Caraway	Harris	Phipps	Warren
Copeland	Harrison	Pine	Watson
Couzens	Heflin	Pittman	Weller
Cummins	Howell	Ransdell	Wheeler
Curtis	Johnson	Reed, Mo.	Williams
Dale	Jones, N. Mex.	Robinson, Ark.	Willis
Denen	Jones, Wash.	Robinson, Ind.	
Dill	Kendrick	Sackett	
Edge	King	Sheppard	

Mr. ROBINSON of Arkansas. I desire to announce that the Senator from Rhode Island [Mr. GERRY] is detained by illness.

The PRESIDING OFFICER. Eighty-one Senators having answered to their names, there is a quorum present. The clerk will report the resolution offered by the Senator from Kentucky. [Mr. ERNST].

The Chief Clerk read the resolution (S. Res. 194), as follows:

Resolved, That Danief F. Steck is hereby declared to be a duly elected Senator of the United States from the State of Iowa for the term of six years, commencing on the 4th day of March, 1925, and is entitled to be seated as such.

Mr. STEPHENS. Mr. President, I offer as a substitute the resolution which I send to the desk.

The PRESIDING OFFICER. The Senator from Mississippi offers a substitute resolution, which the clerk will read:

The Chief Clerk read the substitute, as follows:

Strike out all after the word "*Resolved*" and insert:

"That Smith W. Brookhart is hereby declared to be a duly elected Senator of the United States from the State of Iowa for the term of six years, commencing on the 4th day of March, 1925, and is entitled to a seat as such."

The VICE PRESIDENT. The Senator from Kentucky is entitled to the floor.

Mr. ERNST. Mr. President, I yield the floor to the junior Senator from Arkansas [Mr. CARAWAY].

Mr. CARAWAY. Mr. President, a parliamentary inquiry. The committee makes a report in the form of a resolution, and for that report a substitute is proposed by the Senator from Mississippi. Under that statement who is to proceed?

The VICE PRESIDENT. The substitute offered by the Senator from Mississippi is in order and takes precedence of the resolution reported by the Senator from Kentucky.

Mr. CARAWAY. Which course does the Senator from Mississippi prefer?

Mr. STEPHENS. I simply rose, after the resolution reported by the Senator from Kentucky was read, and asked that there might be read a substitute which I proposed to offer and have pending. That is exactly the procedure that was taken a few weeks ago in the Nye case, and at that time there was no question raised as to which side should first proceed.

Mr. CARAWAY. I have no choice, I will say to the Senator.

Mr. STEPHENS. It is really a matter in which I am not personally interested as to which shall first be heard. It occurs to me that the majority of the committee having made a report and having offered a resolution, it is very proper that the first speech should be made by one of those supporting the majority report. However, I shall not contend for that course.

Mr. CARAWAY. Mr. President, I have no objection to the procedure proposed. The chairman of the Committee on Privileges and Elections [Mr. ERNST] has paid me the honor of yielding his place on the committee to me for the purpose of setting out briefly what it was the committee did and the reasons for its action. I had not known until a few minutes ago that that was to be the procedure or was in contemplation. I have no objection to it. I want to say to Senators that I shall undertake to set out first what it was the committee did with reference to bringing the ballots to Washington, the manner in which they were recounted, and then the question that was submitted to the committee for its final determination. As I proceed, I shall be very glad, indeed, for any Senator who feels inclined to do so to stop me at any point and ask me any question that is in his mind.

There has been propaganda going the rounds of the Senate. Its propriety I shall not undertake to discuss. One party to the contest has gone to every Senator on this floor personally and set out his views. He has gone not only one time, but, I presume, every Senator on the floor has been approached many

times and had that party to this contest state what his views are and what he claims his rights were. There has been constant propaganda. I myself was subjected to it. I do not personally know what propriety demands.

I do know that the other party to this contest has never gone to a single member of the body, as far as my information goes—I know it is true so far as I am individually concerned—he has never suggested one thing that should be done or should not be done in determining this contest. In fact, so particular was he that he never, as I understand, was introduced to a single Member of the Senate. Which was the course that propriety ought to suggest, I am going to leave each Senator to be his own judge.

The committee was organized to recount the votes in Iowa under a petition by the contestant Steck and a response or answer by the incumbent Brookhart, in which both sought the same thing. Each alleged that there were irregularities in the election in Iowa; each alleged that votes cast had been counted for the wrong candidate. They agreed, then, in their petition that the thing to be done was to recount the votes and let the recount determine who was elected to a seat in the Senate from the State of Iowa for the six years commencing on the 4th day of March, 1925. There is not any dispute about that, or there was not until very recently.

The committee then named a subcommittee, of which I have the honor of being a member. That subcommittee organized on the 20th day of July, 1925. It had before it the attorney representing the contestant and the attorney representing the incumbent, and suggested certain rules of procedure, to wit, that the ballots should be brought to Washington and should be recounted. That was agreed upon. The preliminaries appear on pages 1, 2, and 3 of the record.

When the ballots were all here the attorney representing the contestant and the attorney representing the contestee or the incumbent were before the committee, as appears from the record on page 61. The whole procedure was gone over, the entire action that had been taken was discussed, and whether any objections were to be had to what the committee had done. It was agreed there was none.

As appears on pages 61, 62, and 63 there was a meeting of the committee on the 2d of December, 1925, when every ballot in this contest had been gone over by supervisors—and I shall refer to them in a few moments—and when the attorneys were here for the final argument in that case, when all the record was made up except merely the submission of the tabulations which had been made. Then the question of whether there was any objection to anything that had been done was raised, and in answer to a question, as is found on page 63, this occurred:

Senator GEORGE. All of the ballots cast in the election have been brought to Washington and have been gone over?

Mr. PARSONS. Yes.

Senator GEORGE. And there is no dispute arising about any omission of ballots?

Mr. PARSONS. None that I know of.

Mr. MITCHELL. There may be a question of discrepancy between the ballots and the poll books.

Mr. PARSONS. There may be in one or two cases.

Senator CARAWAY. How many votes will likely be involved in that?

Mr. MITCHELL. I would not think more than 200 or 300.

Senator CARAWAY. Do you propose introducing oral evidence to settle that controversy, or is there some other means?

Mr. MITCHELL. It will be simply a matter of record with the ballots, and the record of the final report.

That was the statement of Mr. Mitchell, who represented Mr. Brookhart.

Let us go back for a moment. When the committee organized to recount the votes it followed what I had understood to be the method heretofore pursued. The Secretary of the Senate was to have general supervision. Then the incumbent [Mr. Brookhart] was permitted to name anybody whom he wanted to represent him, and Mr. Steck was permitted to name anyone he wanted to represent him. These composed the canvassing board. The counters—I think 18 or 20 in number—were sworn in. When that was done, as appears on pages 1, 2, and 3 of the record, the method of procedure was explained to the attorney for Mr. Steck and to the attorney for Mr. Brookhart, and any suggestion they wanted to make was heard. The method was entirely agreed upon. Each one was permitted to stay, if he saw fit; and if he did not, he was instructed that he could tell his supervisor what he wanted him to do.

I am not unmindful of the fact that after the record had been made up, and after it was apparent that Mr. Brookhart had not received a plurality of the votes cast, for the first

time then it was suggested that there was some irregularity, and Mr. Brookhart was given, at his own request, a three days' hearing before the committee, after all records had in other respects been made up. In that hearing he absolutely denied that he had anything to do with the naming of the supervisor or nominating a supervisor. First he said that he had nothing to do with it; that the Senator from Kentucky [Mr. ERNST] named the supervisors. After he was compelled to admit that that was not accurate, he said, "I did nominate one." The authority went further than that. It was not a nomination that somebody could turn down. He was told to exercise the right to nominate whomsoever he pleased. He first named a man by the name of Cook, who represented him for a while, but, some differences having arisen between them—and I am not concerned about that phase of it—he named his secretary. Of course, nobody questioned that. Then later he named his brother and put him in charge for him, his brother being a lawyer from Iowa. And so the recount proceeded. It is rather interesting, if anybody wants to examine the record to see what did actually occur.

As I have said, after this had all been gone through with, and after the attorneys had come here, they asked the committee to permit them to go over the ballots that were still in dispute. They had settled all the controversies except as to about 9,000 votes. They said if the committee would permit them to go over those ballots they could further reduce the number in contest and save the committee a great deal of work.

At their request the committee adjourned on the 4th day of December, 1925, and met only to receive reports from them from time to time, until the 6th day of January, 1926, when they had finally reduced the contested ballots to the lowest number as to which they could agree. They arranged the ballots then into 16 classes and agreed among themselves that class 1 embraced ballots which could be counted for neither contestant nor incumbent; in other words, that the voter did not intend to vote and did not vote either for Mr. Steck or Mr. Brookhart, therefore class 1 went out. They then agreed with reference to class 3. To cover all they entered into 213 stipulations having to do with the various ballots and with the reasons for challenging them. The 16 classes were finally reduced, as I have said, to 14 classes, upon which the Senate committee was asked to pass.

After they had done that and when the argument by counsel for the contestant had been made, for the first time there was injected into the record the contention that there was something wrong with the ballots from 67 precincts; that there was something wrong with the way in which the ballots came here. The question was never raised as to those 67 townships until after the result was apparent. That there was a shortage of ballots or that there were certain lost ballots was never suggested until both attorneys had made their arguments and gone home. Then Senator Brookhart asked permission to go before the committee and raised that question. That raised the question that is before the Senate now, as would seem from the report of the minority, as to whether the ballots in 67 townships had been brought here under such circumstances as would insure their genuineness. Mark you, that was the first time—and it was after the result was apparent—that the question was ever raised. It was not raised, it seems to me, in accordance with the facts. Everybody will be his own judge as to that, but at least Senators ought to be asked to pass upon the record as it actually is.

My friend from Mississippi [Mr. STEPHENS] says that it is impossible to stipulate one in or out of the Senate. Just what he means by that I do not know, because almost immediately after that he qualifies it by another statement that there could be a stipulation as to how a ballot should be counted. If you can do that; but if you can not stipulate one in and the other out, I do not know just what was meant, and I have never been able to find out.

But it is a fact that every member of the committee knows and the contestant and the contestee knew that instead of the ballots from 67 precincts in Iowa being irregular, the ballots from only 2 of them that came here were unsealed or there was any irregularity before they left Iowa.

On page 57 of the record appears the stipulation according to which the ballots were to be brought to Washington to be counted. It was agreed that the contestant and the incumbent should each have a representative who should go with the Sergeant at Arms or the Secretary of the Senate—I do not recall which, and it makes no difference—to each county auditor in Iowa and help him in forwarding the ballots; that is, that they would sign the envelopes in which the ballots were contained, stating the condition of the ballots and all

other relevant facts. Senators will find that stipulation on page 57.

After that stipulation was entered into they went to Iowa and took up the machine votes, which I will explain in a few moments. Doubtless the incumbent has explained it to Senators many times, because I presume he has told them all about the case. In certain precincts in Iowa the voters cast their ballots by machine, and they are known in this record as machine ballots. In other townships, where I presume the population is not so great, they are cast by hand and are known as paper ballots.

When this stipulation, as it appears upon page 57, had been entered into, and the Secretary of the Senate, Colonel Thayer, with the representatives of Mr. Brookhart and Mr. Steck, had gone to the precincts in which the machines had been used and taken up the machine ballots, a new agreement was entered into by the attorney representing Mr. Steck and the attorney representing Mr. Brookhart, by means of which it was agreed that the representatives of these two parties need not go to the various counties and be present when the auditors should transmit by mail these votes to the Senate Committee on Privileges and Elections in Washington, or, rather, to Colonel Thayer, who was acting for the committee. They entered into that agreement, and under that agreement every ballot in Iowa that was known as a paper ballot was brought to Washington and delivered to Colonel Thayer. Senator Brookhart's and Mr. Steck's representatives knew how they were coming. They agreed in advance of this change as to the method of bringing them here. They came in accordance with their agreement. They were present by their representatives when every bag of them was opened. They saw every envelope before a ballot was taken out of it. They knew everything that anybody knows about it now; and in accordance with their new agreement they received the ballots, they recounted the ballots, they certified the result, and nobody ever raised any question about it until the committee had gone through it and the result apparent, and then we were asked to reject the recount in 67 precincts.

Mr. BAYARD. Mr. President—

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from Delaware?

Mr. CARAWAY. I yield.

Mr. BAYARD. May I ask the Senator to tell the Senate the date of changing the original stipulation and of making the second stipulation, whereby they did not consider it necessary to go to the auditors directly, but arranged for getting into communication with the county auditors through the Sergeant at Arms?

Mr. CARAWAY. Yes; I happen to have the date when the change was made. I can get the exact date, because the letter of the Secretary of the Senate was sent out to the county auditors after that, but I do not seem to have it lying on my desk. I wish the gentleman who has the whole record would be brought in here and given a seat so that I can get it from him.

Mr. BAYARD. The reason why I suggested that was because that date, as I understand, was back in April, 1925.

Mr. CARAWAY. It was before a single paper ballot left Iowa. Before one of them had been seen by anybody connected with this contest they entered into this new agreement, and the Secretary of the Senate, Colonel Thayer, sent out his letters of instruction to the auditors stating that they had changed the plan. It was in April, 1925.

I have the letter here setting out the facts as to the new agreement. It is rather long. It was sent to the printer and was to be published, but for some reason it was not. Here is the letter which states what the facts were:

Mr. WATSON. Mr. President, let me ask who wrote that letter?

Mr. CARAWAY. This letter is a letter written by Mr. Parsons; but let me explain in regard to its accuracy. The Secretary of the Senate, Colonel Thayer, swears that he was present and knows that that is the agreement that they entered into.

Mr. HARRIS. Who is Parsons?

Mr. CARAWAY. Parsons is the attorney who entered into the agreement for Mr. Steck. Colonel Thayer, the Secretary of the Senate, was present and swears that this is the agreement that was entered into.

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

Mr. CARAWAY. Yes.

Mr. WHEELER. Where does he swear to that in the record?

Mr. CARAWAY. It is in the report, if you please, sir.

Mr. WHEELER. I mean, is there anything of that kind in the record?

Mr. CARAWAY. It is not in the record, because when the record was made up this question never had arisen.

Mr. WHEELER. Will the Senator yield for one or two more questions?

Mr. CARAWAY. Yes, sir.

Mr. WHEELER. With reference to these ballots coming down here, do I understand the Senator to say that there is some stipulation providing that they should be sent down here from the auditors?

Mr. CARAWAY. That is it. It appears on page 57.

Mr. WHEELER. Yes; but is there at any place in this record a stipulation that those ballots should be counted and be used as evidence in this case, regardless of whether or not they were proved to have been kept in the proper manner from the time that they were taken from the auditors?

Mr. CARAWAY. What does the Senator think they were brought down here for?

Mr. WHEELER. I think they were brought down here to be counted; but that is not the question I am asking the Senator. I am asking him if there was any stipulation entered into that these ballots should be taken as the evidence, in preference to taking the official returns?

Mr. CARAWAY. In other words, after we had gone through all this, if we found that the contestant had filed his complaint and the incumbent had filed his response in which both wanted a recount, and they got together and agreed to bring the ballots down here and recount them, then the Senator wants to know if we are to be bound by what we found?

Mr. WHEELER. I want to know whether there is any stipulation.

Mr. CARAWAY. No; there is not any stipulation. The Senator is asking whether a man will live up to an agreement.

Mr. WHEELER. No.

Mr. CARAWAY. Oh, yes; he is.

Mr. WHEELER. I am not asking anything of the kind. I do not think there is any agreement on that point.

Mr. CARAWAY. Oh, I know the effect of it, and I know that the Senator's position upon it is that it does not make any difference what Senator Brookhart agreed to, that he is not bound by it; and anybody who feels as the Senator does about it is going to vote as he has been intending to vote all the time. I am perfectly willing to yield for questions, but there is not any use in asking me if I think the contestant and the contestee will live up to their agreement. I thought they would. If the Senator feels differently, he will act differently.

Mr. WHEELER. No; I simply want to see the agreement.

Mr. CARAWAY. Well, the Senator knows there is not any agreement of that kind.

Mr. WHEELER. Then why does the Senator say there is an agreement?

Mr. CARAWAY. I did not say it. I said they had agreed to bring the ballots down and recount them, but what the Senator wants to know, is if they told us they would abide by their agreement.

Mr. WHEELER. I did not say anything of the kind.

Mr. CARAWAY. What does it mean, then?

Mr. WHEELER. It does not mean anything of the kind.

Mr. CARAWAY. Then it does not mean anything. There are some in the Senate who have no freedom of choice in this matter, who never had, and never will have. Here is the agreement. I do not want to be discourteous to the Senator from Montana, but that was the same position taken by two other gentlemen with reference to this agreement. The stipulation was that the ballots should be brought here for what purpose? Of course to be recounted, because the attorney for the contestant and the attorney for the contestee had been before the subcommittee and had agreed upon the rules, and each one had named his supervisor for the express purpose of recounting these ballots. What the Senator apparently is going to turn on is that there was not any agreement that the ballots had been properly kept, and therefore could be received. There was not as to that, and that question, of course, is disclosed by the record itself, because the stipulation was that the auditors should place upon the containers of the ballots the condition in which they were received—I am not following it exactly, but the statement on page 57 will show it—and the conditions under which they had been preserved. That was in the stipulation. They afterwards waived the requirement that these parties should be present and sign these containers of the ballots and agreed that they should be put in registered mail bags and should be sent to Washington under registered mail with a statement as to the condition of the ballots. That is what I am coming to—what they know.

Out of the 1,800 so-called paper-ballot precincts the auditors were to place upon the packages notations of any irregularity

about the way in which the ballot had been received from the election officers or any other irregularities that might appear. Under that there came here, as I said, the ballots from about 1,800 precincts. On two of them only was there a notation that these ballots had come from the officers holding the election to the county auditor in unsealed packages—two, and only two; the first precinct in Winterset and a precinct in the second ward of Estherville, if I remember correctly. The ballots from those two precincts came here with a notation that they had come from the precinct election officers in unsealed packages.

Somebody said: "Well, of course, that has not anything to do with the rest." I submit that if one was sent to ascertain how many people were in a room and there were 50, some negroes, the others white, and I asked him to go again and then come back and tell me how many of them were negroes, and he came back and said that two only are negroes, anybody would understand that the other 48 were white. So when they were asked to show how these ballots came to the county auditors, and they said that two of them came to them in unsealed packages, everybody knows that it meant that the other 1,798, or whatever the exact number was, came to them regularly and were transmitted regularly.

Sixty-seven of them came here with broken seals or partly broken seals. It was known all the time, although one member of this contest came to me and said he never knew anything about it until I said something about it, although I had in my hand then his brief in which he had discussed them.

These ballots came here in 67 packages, they said, unsealed. There were 72, in fact. It is interesting to talk about them. They came to Washington in registered-mail sacks, in which they were inclosed by the county auditors of the various counties in Iowa. Each one was locked with a lock that has a device on it so that if it is ever opened it will record that fact. So everybody—the Secretary of the Senate, who is your Secretary; Mr. Turner, who was selected as the tabulator; and everybody else—knows how they came. They could not have been opened in the mail sacks. Even the contestee admits that. So that if there is anything wrong with them, it happened in Iowa; and yet, under the stipulation that was lived up to, they were brought here according to the agreement of the contestee and incumbent, and nothing happened to them in Iowa except that the ballots of two precincts had been brought to the auditor in unsealed packages.

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

Mr. CARAWAY. I yield; yes.

Mr. WHEELER. Did the committee take any evidence to show whether or not these ballots, when they were offered in evidence to be counted, were preserved as they should have been preserved according to the law of the State of Iowa? And if they took any evidence, will the Senator kindly point to the record of that?

Mr. CARAWAY. Let me tell you what the committee did. I realize, of course—

Mr. WHEELER. Mr. President—

Mr. CARAWAY. Just a minute; let me answer. The committee took no evidence on that, because here is what happened:

The ballots were brought here. The manner of their bringing here was known to both parties. The supervisor representing Mr. Steck and the supervisor representing the contestee or incumbent, Mr. Brookhart, received them. They opened them. They counted them. They agreed among themselves to whom they belonged, and they laid aside 900,000 of the ballots and never made a complaint about them. There were 9,000 of the ballots, in round numbers, about which they did not agree, not because of the manner in which they came here, but because of some doubt about whether the man intended to vote for Steck or intended to vote for Brookhart, or whether he did intend to vote for either. They laid them aside and said:

These are the votes on which we ask the Senate committee to pass, to determine who is entitled to receive them, whether Steck or Brookhart.

Therefore all other ballots, including these from the 67 precincts, were mixed up with 900,000 other ballots before anybody said anything at all about the fact that some of them came here in sacks on which the seals were broken.

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

Mr. CARAWAY. I yield.

Mr. WHEELER. After that explanation, will the Senator tell me whether or not any evidence was taken to show whether or not the ballots were preserved in Iowa in accordance with the law, prior to the time they were subpoenaed here by the committee?

Mr. CARAWAY. No; there was not. The Senator knows that.

Mr. WHEELER. I know it, yes; but I wanted to ask the Senator so that the rest of the Members of the Senate will know it.

Mr. CARAWAY. Everybody knows it. I have said it over and over again, that the sacks came here under an agreement that was lived up to literally by everybody connected with it, until after the result was apparent, and was never repudiated by anybody until after they knew the recount defeated Brookhart. Then that question was raised, and then affidavits were taken which showed that only two of the sacks left Iowa with unsealed packages. Therefore it affirmatively appears that the others did not, because you do not prove negatives except when you try to seat somebody who did not get a majority of the votes. There was a positive showing that two, and two only, came here unsealed or had been unsealed when they were delivered to the post office in registered mail bags which could not be opened in transit.

The ballots were inclosed, if I may be permitted to say so, for just whatever interest it may have, in sacks of cloth something like cheesecloth. They were wrapped with a string or wire—I do not remember which, and it does not make any difference—and then sealing wax was put on that. That is the seal they talk about being broken.

When they came here and the sacks were opened the sealing wax on some of these strings tied around the bags were broken. Nobody raised any question about it. The representatives for both sides knew it. They were present when every one of the sacks were opened. (Rec. 329-330.) They accepted them that way. (Rec. 340.) They said they would count them and ascertain the results after they had arrived in that way, and when the results were ascertainable to be unfavorable to Mr. Brookhart, for the first time it was said, "These sacks were unsealed." They never suggested that they had any witness to show that they had been tampered with in Iowa. In fact, there was no contention that they had been, and Mr. Mitchell, who represented the contestee, when all those things were known and when he was asked if there was any question about any ballot, in answer to the query, "How many votes will likely be involved in that?" replied, "I would not think more than 200 or 300." (Rec. 63.)

After that he went ahead to the conclusion of the contest and took his departure for Iowa and never said another word, never offered another suggestion, about those two or three hundred votes. He said, "There may be a question as to two or three hundred votes." He did not say, "There is a question about them." He submitted his case to your committee, and went home, without ever again referring to those two or three hundred votes, and no living man ever referred to them, as I have said, until it became necessary to go back and question something that was done in order to try to find some excuse for doing what some intended to do before, to vote for the contestee regardless of what the result was. That was the first time that question was ever raised.

As I said, not 72 sacks left Iowa unsealed, and not 67. The affidavits of the Secretary of the Senate and others show how many of these sacks bore the certificates from the county auditors in Iowa that they had received them and had transmitted them in unsealed packages. The affidavits showed that only two were unsealed, involving only two precincts.

What went on in those two precincts? There was an irregularity. They did not know what happened to them. In the first precinct the ballots numbered 198 less than the names appearing upon the poll books. They recounted seven hundred and some of them. If the same ratio obtained had been kept up that prevailed as to those which had been recounted, and all of the ballots had been there, Mr. Steck would have gained 302 votes on the recount. But there being 198 ballots short, and the contestee more concerned than anybody else, they accepted the official count, which, according to the gain in percentage, lost Steck and not Brookhart 28 votes.

Mr. COPELAND. Mr. President—

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from New York?

Mr. CARAWAY. I yield.

Mr. COPELAND. Was the same rule applied in every other instance?

Mr. CARAWAY. What same rule?

Mr. COPELAND. Where there was a difference as to the number of votes, was the poll list compared with the official ballot?

Mr. CARAWAY. The same rule was applied in every instance; that is, the board of supervisors, who had charge of it, one of them representing Mr. Steck and one representing Mr.

Brookhart, and Colonel Thayer, Secretary of the Senate, agreed, and the committee accepted whatever they agreed upon, and the statement in the minority report that one rule was adopted in one case and another in another, of course, like a good many other statements, is entirely lacking a foundation in fact.

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

Mr. CARAWAY. I yield.

Mr. WHEELER. In one Winterset County—

Mr. CARAWAY. That is not a county; it is a city.

Mr. WHEELER. In Winterset precinct you took the official count, and you found that the ballots—

Mr. CARAWAY. Were 198 short.

Mr. WHEELER. Were 198 short?

Mr. CARAWAY. Yes.

Mr. WHEELER. There were four other precincts, were there not, where the ballots were short, and—

Mr. CARAWAY. There were 1,056 precincts.

Mr. WHEELER. Never mind about the 1,056. I am asking you only about these four. Is it not a fact that there were four precincts, specifically four precincts, where they did not agree with the official count, and the committee did not take—

Mr. CARAWAY. The committee did not take either one.

Mr. WHEELER. They did not?

Mr. CARAWAY. They did not.

Mr. WHEELER. The counters, then?

Mr. CARAWAY. The representative of Mr. Brookhart himself agreed to it, just as they agreed to every other precinct. Therefore let us keep that straight, that it was never brought to the committee for consideration, any more than the other precincts were.

Mr. WHEELER. Is it not a fact that the record shows that there were four precincts set aside, and that the record shows—

Mr. CARAWAY. No.

Mr. WHEELER. It does not show that?

Mr. CARAWAY. The record shows that four precincts had a shortage of votes, and that that was noted at the time, but the auditors disposed of them, as they did others.

Mr. WHEELER. The counters went ahead, but they did make a notation to set those aside?

Mr. CARAWAY. Of course they did, just as they made lots of notations on the work sheets, merely to show what they did, and what they found. They never brought it to the committee. It was not one of the things the committee was asked to pass on. The Senator from Montana knows it. In the machine ballot there was a very great variance between the number of votes cast and the number of names appearing on the poll books, and in some places the poll books were gone altogether; and the Senator knew it.

Mr. WHEELER. I did not know anything of the kind. Why does the Senator stand there and say I knew something, when I did not know anything about it?

Mr. CARAWAY. Then, if the Senator did not know it, he did not read the record.

Mr. WHEELER. Why does the Senator stand up there and say I knew something—

Mr. CARAWAY. I believe you know it.

Mr. WHEELER. The Senator does not know anything of the kind.

Mr. CARAWAY. I say I believe it, because the Senator is asking questions about it, and he could not inform himself about one without informing himself about the other.

Mr. WHEELER. I say I did not know anything about it, and I object to the Senator saying I knew it was in the record.

Mr. CARAWAY. I do not care what the Senator says about it. I will say whatever I please.

Mr. WHEELER. It does not make any difference to anybody what the Senator says.

Mr. CARAWAY. I am not going to let somebody come here with half a record and then claim entire ignorance of the rest of it. The vote in the machines was short. The record here shows that some poll books were gone altogether, and the Senator could not have read it without knowing it. Yet Mr. Brookhart gained 774 in the recount of the machine, but they do not say a word about that. It is a question of policy. I am not going to let them distort the record. They can make whatever excuse for it they desire.

Mr. REED of Missouri. Mr. President, without getting into this personal dispute, I would like to get this matter clear.

Mr. CARAWAY. Very well.

Mr. REED of Missouri. There was one precinct, known as the Winterset precinct—

Mr. JONES of New Mexico. Mr. President, there are some of us who would like to know what is going on, and we can not hear this private conversation.

Mr. REED of Missouri. I will speak louder. In the precinct where there were 198 ballots missing, no matter why—and I am not asking why—the official count was taken instead of the other?

Mr. CARAWAY. Exactly.

Mr. REED of Missouri. That is correct?

Mr. CARAWAY. Yes.

Mr. REED of Missouri. Were there three other precincts in the same county in which there was found a discrepancy between the poll books and the ballots?

Mr. CARAWAY. I do not know whether they were all in the same county, but I think they were. I think there were 1,056 precincts among the 1,800 precincts from which the paper ballots brought here came, in which there was some discrepancy between the number of names on the poll books and the number of votes that came here in the mail bags.

Mr. REED of Missouri. I have not read this record—

Mr. CARAWAY. I am sure of that.

Mr. REED of Missouri. I had understood—and I do not want to get away from just this one point; I do not mean to interrupt the Senator—that there were three other precincts in the same county in which Winterset is located in which there was a considerable discrepancy between the ballots found and the number of votes shown on the poll books.

Mr. CARAWAY. Not any considerable discrepancy; no.

Mr. GEORGE. Mr. President—

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from Georgia?

Mr. CARAWAY. I yield.

Mr. GEORGE. If the Senator will excuse me, in this one precinct there were, according to the official count, about 900 votes polled. When the ballots from this particular precinct were received here there were found to be 198 ballots less, or nearly one-fourth. This is one of the two precincts where the sacks left Iowa unsealed. The sack from this precinct was unsealed when it left Iowa, according to the return. In none of the other precincts was there any discrepancy that approached that one, and never more than 15 or 20 votes difference.

Mr. REED of Missouri. I am just trying to get one fact, and then I will take my seat. There were three other precincts in that same county, were there not?

Mr. CARAWAY. I am sure there were. I think there were 27.

Mr. REED of Missouri. In which there was discrepancy?

Mr. CARAWAY. Yes.

Mr. REED of Missouri. And in those three other precincts, regardless of what the reason was, the ballots were counted—

Mr. CARAWAY. Just as they were in the other precincts.

Mr. REED of Missouri. And the official count disregarded, the committee following the ballots?

Mr. CARAWAY. The counters, not the committee; the supervisors themselves.

Mr. REED of Missouri. You accepted the recount?

Mr. CARAWAY. Of course, just as we accepted it as to every other—

Mr. GEORGE. If the Senator will pardon me, Mr. Brookhart's representative agreed to accept the official vote in that precinct, and we simply accepted his agreement.

Mr. REED of Missouri. Very well. I am not asking about what people agreed to—

Mr. CARAWAY. What is it the Senator wants?

Mr. REED of Missouri. I have a view of this question quite aside from the matter of the agreement. I may be wrong in it. I have not yet expressed what it is. What I want to get at is merely the fact. There is one precinct in which there was a shortage of votes—a very large shortage—and in that case you took the recount.

Mr. CARAWAY. I object to you using the word "you," because the representatives themselves took it.

Mr. REED of Missouri. Very well. In the result which you obtained you took the recount?

Mr. CARAWAY. That is true.

Mr. REED of Missouri. There were a large number of other precincts in which the poll books and the official count did not accord with the ballots?

Mr. CARAWAY. That is true.

Mr. REED of Missouri. And in those cases you took—

Mr. CARAWAY. No.

Mr. REED of Missouri. In those cases the result you obtained and reported is based upon the ballots counted and not upon the poll book or the official return?

Mr. CARAWAY. Of course, the Senator knows that. What is the use to ask that question?

Mr. REED of Missouri. I do not know it.

Mr. CARAWAY. How does the Senator think there was a recount? He has been told there were 1,056 precincts in which there was a difference, and they were recounted.

Mr. REED of Missouri. I think the Senator is in a very unpleasant frame of mind to address me in this way, that I "know" this and I "know" that.

Mr. CARAWAY. Then I will say the Senator does not know. Mr. REED of Missouri. I am only asking for information. I assumed that the Senator had been through the matter and that he would very gladly give me any information I might seek, and I wanted that matter cleared up.

Mr. CARAWAY. I have said over and over again that there was only one precinct out of 1,056 precincts in which the official count was turned to. That has been said from beginning to end. If I could make it any plainer, I would be glad to do it.

Mr. REED of Missouri. Will the Senator allow me to ask a further question?

Mr. CARAWAY. Yes.

Mr. REED of Missouri. Then I probably will not interrupt him again. In how many precincts was it found that the votes discovered exceeded or were less than were shown on the poll books?

Mr. CARAWAY. I have just said 1,056.

Mr. REED of Missouri. What was the aggregate of those votes?

Mr. CARAWAY. The aggregate of those votes? What does the Senator mean?

Mr. REED of Missouri. The aggregate of the difference between the poll books returned and the votes found?

Mr. CARAWAY. There was a discrepancy of about 3,300 votes in all the State of Iowa.

Mr. REED of Missouri. Did the committee take any evidence to show how those particular votes which were lost had been cast?

Mr. CARAWAY. We do not concede there was ever a vote lost. If the Senator will let me explain it, I think he may understand; but if I say just "yes" or "no," then the Senator will say he does not understand.

Mr. REED of Missouri. I will try to understand and try to be entirely polite about it, too.

Mr. CARAWAY. I should be surprised.

Mr. REED of Missouri. The Senator may be surprised at anybody being polite.

Mr. CARAWAY. Associating with the Senator from Missouri, that is true.

Mr. HOWELL. Mr. President—

Mr. CARAWAY. Just a moment until I get through with the Senator from Missouri. I want to answer the question of the Senator from Missouri. What was it the Senator wanted to ask about my manners?

Mr. REED of Missouri. I have not asked about your manners. They are obvious. I want to ask this question, and I am trying to do it pleasantly and in the best of humor.

Mr. CARAWAY. Then ask it.

Mr. REED of Missouri. As I understand it, there was a difference of 3,500 between the votes shown on the poll books and the votes found in the ballot boxes.

Mr. CARAWAY. No.

Mr. REED of Missouri. Three thousand three hundred?

Mr. CARAWAY. Yes.

Mr. REED of Missouri. Is there any evidence of how those people voted whose purpose was shown upon the poll books and were not found in the ballot box, or is there any evidence to show whether or not, as a matter of fact, the ballots were cast which were missing, according to the poll books. Is there any evidence of it?

Mr. CARAWAY. I have tried to answer that three or four times. The Senator interrupted me and said he wanted to ask me something else. The Senator started out by saying there were 3,300 votes lost.

Mr. REED of Missouri. No; I asked if that were true. I do not know anything about it.

Mr. CARAWAY. I know the Senator does not know anything about it, or I assumed that from what the Senator said. I started in with the explanation, but the Senator wanted to ask me a question, and I will try to answer it and then I will explain.

Mr. LENROOT. Mr. President—

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from Wisconsin?

Mr. CARAWAY. I yield.

Mr. LENROOT. Has the committee any record of the precincts where the machines were used where there was a discrepancy between the votes?

Mr. CARAWAY. Oh, yes.

Mr. LENROOT. Has the committee any information as to whether, if the same rule were applied to the machine ballots that is said to have been applied here, the result would be different?

Mr. CARAWAY. Exactly the same rule was applied to both.

Mr. LENROOT. Would it have been the same if the contestee's claim was allowed upon the paper ballot and also allowed upon the machine ballot?

Mr. CARAWAY. I do not recall about that just at the moment, but I will try to find out about it and let the Senator know.

Mr. HOWELL. Mr. President—

Mr. CARAWAY. I yield now to the Senator from Nebraska.

Mr. HOWELL. I take the liberty of correcting the Senator. There were 1,068 precincts in which there was a shortage in every precinct, a total shortage of 3,570.

Mr. CARAWAY. Well, the Senator—

Mr. HOWELL. Just a moment. As I understood, the Senator suggested that the machine-precinct results did not tally with the poll books.

Mr. CARAWAY. Of course. In some places there were no poll books at all. That is a matter of record, and everybody who read the record knows it.

Mr. HOWELL. Is it not a fact that when the machines were reread the totals of the machines were not read, and if the totals of the machines were not read it was impossible to make a check with the poll book? I have it from the supervisor who read the machines that the total vote on the machines were not read, hence there is no evidence that in the machine precincts the votes did not correspond with the poll books.

Mr. WALSH. Mr. President—

Mr. CARAWAY. I yield to the Senator from Montana.

Mr. WALSH. Aside from the question of waiver or any agreement of the parties, did the committee reach any conclusion as to which should be followed in case there was a discrepancy between the number of names on the poll books and the number of ballots in the box?

Mr. CARAWAY. The committee was not asked to pass upon that question. As I have tried to explain, but I seem to have been unhappy in the explanation, the committee set up the machinery for recounting the votes. It selected the Secretary of the Senate and then permitted the contestant, Mr. Steck, to select somebody who should be known as his supervisor. It allowed Mr. Brookhart, the contestee, to select somebody who should be his supervisor. The instructions were, and they appear upon page 3 of the hearings, that they should count the votes and should challenge the ones they wanted to, and any question about which they could not agree they were to bring to the committee. They counted nearly a million votes. They came to us when they had recounted every ballot and said:

There are 9,000, in round numbers, of votes about which we do not agree as to whether they should be accredited to Mr. Brookhart or to Mr. Steck.

That is the question which the committee was asked to pass upon—what should be done with those ballots.

Then Mr. Steck's counsel, Mr. Parsons, and Mr. Brookhart's counsel, Mr. Mitchell, said that if the committee would give them time they would take those 9,000 ballots and go over them and see if they could not further eliminate those ballots about which there was some disagreement. We gave them the time and they took a month. They came back with that number reduced in fact to about 4,000 votes, and the only question they asked the committee to pass upon was to look at those ballots and see whether they belonged to Steck or whether they belonged to Brookhart, and that settled the contest.

Mr. WALSH. As I gather from the discussion, there is some difference of opinion as to what was actually agreed to, and more difference of opinion as to what was the effect of that agreement. I wanted to submit that to the Senator and I wanted to inquire whether the committee considered the question as to what was their duty in the premises aside from those agreements. Let us say a case is presented where the number of names on the poll list is 10,000 and the number of ballots in the box is 5,000. Did the committee consider whether under those circumstances they should determine the contest on the basis of the 5,000 or whether they should take 10,000?

Mr. CARAWAY. Let me ask the Senator a question. If he were a judge on the bench and a lawsuit was being tried before him and entirely reputable counsel, hostile in interest, should

bring to him the statement that they had gone through every fact that they said was in dispute and agreed, and ask him to pass upon just one question, as a judge would he do that or would he refuse to be bound by the agreement of counsel?

Mr. WALSH. My question eliminated that.

Mr. CARAWAY. That is the only question there was. I wanted to say this, but I never was able to get to it. I have here on page 13 of the hearings the sworn response of Senator Brookhart in which he swears that at the election he received 447,706 votes and that Steck received 446,951 votes. That is the number of votes that the certificate from Iowa which election officers counted and agreed ought to be counted for one party or the other. These were all they found and considered were votes that had been legally cast and had been counted. The committee sent down there and brought all the ballots and found that there were over 900,000 votes—very many more than appear here—that had been cast and ought to have been counted and had not been in some instances counted properly. Yet it is now said there is a shortage of ballots when there are more ballots here and it more nearly agrees on this recount with the poll list by more than 7,000 votes than the official count, but now is claimed you must take the official count, because you do not know how these people voted. If we take the official count, instead of 3,300 votes not accounted for, we would have more than 6,000 not accounted for.

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

Mr. CARAWAY. Certainly.

Mr. DILL. How many precincts were there in which there were more votes found by the committee in its recount than there were on the poll books?

Mr. CARAWAY. I do not know. There was a variance, as I recall, of 1,056. The Senator from Nebraska [Mr. HOWELL] said there were 1,068. Some of them had too many and some had too few. I wanted to call attention to the fact, well known to the parties to this contest, that accompanying the regular ballots was an envelope on which were notations that "this envelope contains spoiled ballots," or "contains irregular ballots," or "contains no ballots," or "contains disputed ballots." In most instances, if that question had been raised when the ballots were here and the poll books were here we could have taken those envelopes and opened them and found the remainder of the ballots. Some of them came in an envelope like this [indicating] reading: "Defective ballots, eighth precinct, fourth ward, Des Moines, Iowa, dated election November 4, 1924," signed by the judges of election. It contained defective ballots. That is where men had gone in to vote and had done something that was not considered as being a legal vote and the election officials did not count it for anybody, but put it in the envelope and called it defective. One of them I happened to examine; it was in the committee; and the Senator who has presented the views of the minority report had it before him. There was a difference of five votes in that precinct. When that envelope was opened those five votes were found, showing exactly what had occurred. I want to say that if that was to have been an issue and had been among the questions which were brought to the committee to be determined, it might have been that it could have been explained; but the representatives of Mr. Steck and the representatives of Mr. Brookhart concurred that that did not have anything to do with the contest.

I have here [exhibiting] a poll book. Somebody is recorded as voting No. 161. For some reason the name of some one else was written over No. 161, so that evidently somebody appeared twice under No. 161. In the same poll book it appears that some one voted under No. 165, but the election officer then decided for some reason that that party ought not to be counted there and put the name "Jesse Handley" under that same number. So there were apparently, according to the poll book, 2 votes in that precinct that were cast by somebody which had no right to be cast, so there would have been necessarily 2 votes more than the names on the poll book.

Every Senator is doubtless aware that on the 3d day of October, 1924, the chairman of the Republican central committee of Iowa gave out an interview in which he stated:

The Republican Party has no candidate on the Republican ticket for United States Senator.

This was the action of the full Republican committee.

It was published in all the papers; they carried on a propaganda to show how the electorate could vote the Republican ticket but not vote for Senator Brookhart. Here is what I was coming to. Nearly one-tenth of the voters of that State did not vote for anybody for Senator. According to agreement, 86,300 and some odd voters did not vote for anybody for Senator.

Mr. WHEELER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Arkansas yield to the Senator from Montana?

Mr. CARAWAY. Yes; I yield.

Mr. WHEELER. There were some 80,000 votes cast for Senator La Follette, were there not? And most of those voters did not cast any votes for Senator at all?

Mr. CARAWAY. I do not know how many votes Senator La Follette got in Iowa.

Mr. WHEELER. I am not sure of the number, but it was something over 80,000, if I am not mistaken; and I say that most of those who cast those ballots did not vote for any candidate for the Senate. Is not that correct?

Mr. CARAWAY. I would not like to say that, because some of those people actually voted for Coolidge and Dawes and for La Follette and WHEELER. That is one brand of "literacy" in Iowa.

Mr. WHEELER. I am not here passing upon the literacy of the people of Iowa. I think the people of Iowa are probably just as literate as are the people of any other State in the Union.

Mr. CARAWAY. Yes; because there were a million votes cast and most of them were cast for one party or the other.

Mr. WHEELER. I am not raising that question. I am simply trying to ask—

Mr. CARAWAY. There is no record of that, I will say to the Senator from Montana.

Mr. WHEELER. I am trying to ask the Senator from Arkansas a civil question, and I am trying to get a civil answer, if he can give it to me.

Mr. CARAWAY. Well, what is it the Senator wants to know?

Mr. WHEELER. I wanted to ask the Senator if he knew whether the men who voted for Senator La Follette voted for anybody for the Senate? I understand they did not, but I do not know.

Mr. CARAWAY. I told the Senator that I never saw these eighty thousand and odd votes. The Senator from Montana states for whom those electors voted. I never saw the votes, and no member of the committee ever saw them; so I do not know.

Here is what I started to say, however: The committee set up the machinery to go over these votes, and there was not any objection to the committee accepting the decision of the board of auditors, consisting of the Secretary of the Senate, the supervisor for Mr. Steck, and the supervisor for Mr. Brookhart, who disposed of over 975,000 votes. Nobody questions those votes. They did not ask us to look at them. They do not know whether they were right about the 975,000 votes, although among them were eighty-six thousand and some odd votes which they agreed were not cast for anybody for Senator. The Senator wants to know if they did not vote for him. I do not know.

Mr. WHEELER. If the Senator will permit me, that is not a fair observation. I did not ask the Senator that question.

Mr. CARAWAY. Then make it just any way the Senator desires.

Mr. WHEELER. I am merely trying to have the Senator be fair about it. I am trying to ask him a civil question; that is all.

Mr. CARAWAY. Did not the Senator say that those electors voted for La Follette and WHEELER?

Mr. WHEELER. No; I did not say that. I asked if they did not vote for Senator La Follette and failed to vote for any candidate for Senator?

Mr. CARAWAY. They could not vote for Senator La Follette under the Iowa law without voting for Senator WHEELER.

Mr. WHEELER. I am not interested in knowing whether or not they voted for Senator WHEELER. I asked the Senator if it was not a fact that those people, or a majority of them, did not vote for anybody for United States Senator? Is there reason why the Senator can not answer?

Mr. CARAWAY. Yes. I told the Senator from Montana a minute ago that I never saw those votes, and therefore I do not know for whom they were cast. I indulge the presumption that a man who is vitally interested in the result, such as the supervisor for Mr. Steck or the supervisor for Mr. Brookhart, who was his brother, would not give away a vote; and when these three people, Colonel Thayer, the supervisor for Mr. Steck, and the supervisor for Mr. Brookhart, agreed that a certain man did not vote for either Brookhart or Steck we did not question their decision. All three of them had to agree before a vote could be set aside. There was not a ballot of the nearly a million votes as to the disposition of which three people did not agree—first, Colonel Thayer, who is Secretary of the Senate; secondly, the supervisor for Mr. Brookhart, whom he had the right to name and did name; and, thirdly,

the man who represented Mr. Steck, whom he named. Those three men had to agree that a vote was to be counted in a certain way before it could be disposed of. After they had done that, then the committee accepted that result.

Mr. WHEELER. Mr. President, will the Senator yield for another question?

Mr. CARAWAY. Yes.

Mr. WHEELER. Assuming that the representative of Senator Brookhart and the representative of Mr. Steck counted the ballots wrong, then the committee, as I understand, accepted whatever these representatives brought in and did not question it at all?

Mr. CARAWAY. That is true.

Mr. WHEELER. Now, supposing they counted them wrong, does not the Senator think if they had counted them wrong, and the fact was pointed out to the committee prior to the time when the committee made its report, that the committee, in justice to both the contestant and the contestee, ought to go back and take them into consideration?

Mr. CARAWAY. Yes; and the committee would have done it, but nobody made the suggestion.

Mr. WHEELER. Was it not suggested? Did not Senator Brookhart suggest it when he appeared personally there?

Mr. CARAWAY. Here is what he did—

Mr. WHEELER. He did that before the committee made its report, did he not?

Mr. CARAWAY. If the Senator from Montana will let me answer that—you know, Mr. President, I have to be particular to be courteous—Senator Brookhart when he came before the committee denied that he had anything to do with the naming of the board of supervisors. I have the record here and I wish to call attention to page 324 of the record. On that page the Senator from Utah [Mr. KING] said:

The Senator undertook to infer that Mr. Steck had control of the ballots. My understanding is that the committee ordered the ballots here. Mr. Steck did not bring them here; they were brought here by the committee. Mr. Steck never had possession of the ballots any more than Senator Brookhart had possession of them.

Then Mr. Zumbrunn, who was a lawyer in the case, said:

And that is so; and one of the auditors that accompanied the committee auditor was the man selected by Senator Brookhart.

Senator BROOKHART. No; he was not selected by me. He was agreeable to me, but he was selected by the committee.

The CHAIRMAN. You recommended him.

Senator BROOKHART. No; I did not. Senator ERNST selected him, and I did not object.

That is his positive statement; but a little later, when the matter had gotten out of his mind and he forgot the importance of it, he said, "I selected my own supervisor."

Mr. WHEELER. Where does he say that?

Mr. CARAWAY. I will show the Senator where he said it.

Mr. WHEELER. Assuming that he did, what importance has it? Assuming that he selected—

The PRESIDENT pro tempore. Senators will address the Chair.

Mr. WHEELER. Does the Chair desire that I shall also face the Chair?

Mr. CARAWAY. Mr. President, I do not care if the Senator asks a question while sitting down. What was it the Senator wanted to know?

The PRESIDENT pro tempore. But there are certain rules of the Senate, the Chair will say to the Senator from Arkansas, and if the Senator from Montana wishes recognition he must secure it.

Mr. CARAWAY. Certain rules do not seem to control some folk. I will inquire what it was the Senator from Montana wanted to know.

Mr. WHEELER. I do not recall now.

Mr. CARAWAY. As I remember, the Senator wanted to know if Mr. Brookhart did deny it what inference was to be drawn from it.

Mr. WHEELER. No; that was not the question I asked. I think I said I could not see what particular bearing that had on the matter.

Mr. CARAWAY. I will show something else about it. In order to get away from the fact that his own supervisor had agreed how the votes should be counted, he said then that he had absolutely nothing to do with the selection of a supervisor at all; that the Senator from Kentucky [Mr. ERNST] had named him, and he himself did not nominate him. Then a little further on—if anybody wants to go into it, I shall point out where—he said that he did name him. That becomes interesting in view of the fact that Senator Brookhart himself said, when he got to arguing the case, that if he had consented to

the method of bringing the ballots from Iowa he then would be estopped from raising these questions. I shall be very glad to read that from the record.

Before doing so, however, inasmuch as the question is up now, I wish to say that Senator Brookhart denied that he had anything to do with the recount, although if Senators will read his petition they will discover that he had asked for it. On page 322, in answer to a question of the Senator from Indiana [Mr. WATSON], Mr. Brookhart said:

I expressed the opinion that it would give me a greater vote on the recount, and it would, but for five counties like this one, where something happened, but I asked no recount and filed no petition or any such thing. The recount is Mr. Steck's recount, and the burden is on him all the way through.

He finally reduced the precincts that he wanted to stand on to 27. However, I am coming down to where he said he felt he would have been bound if the committee had brought the ballots in the manner to which he agreed. Here is what he said:

Senator GEORGE and Senator Brookhart were engaged in a colloquy, and Senator GEORGE said:

I stated merely the method that was followed.

They are talking about bringing the ballots down here. This is on page 338.

Senator BROOKHART. Here is the way this count was started. We had this board, with Colonel Thayer at the head, selected by the committee, with two assistants, one nominated by me and one nominated by Mr. Steck. We agreed first how these ballots should be handled. The committee took its own method and summoned them down here. If they had followed the method we agreed upon, I would say that I was estopped from asserting rules of law, but that was not done. Therefore I maintain that I can raise all the different law questions just as though we had proceeded without any agreement from the start.

They came down and started the count of these ballots. Nobody knows about their condition, because we had not examined them in the State, as this stipulation provided, and it was not my fault that that was not done.

Now, Senators, that is his statement.

Mr. WHEELER. Will the Senator read the rest of it?

The PRESIDENT pro tempore. Does the Senator from Arkansas yield to the Senator from Montana?

Mr. CARAWAY. Yes, sir; I will read the rest of it:

The committee had the right to do it the way it did. There is no challenge of that whatever. We had made it easy so that the preliminary proof of identity and the care and keeping were unnecessary and signed this stipulation to make it easy for the committee, but the committee did it the other way. Now they go ahead and make a record of the facts in reference to these ballots.

In 67 of these precincts they noted the evidence, all the evidence that I am relying on, that they were unsealed when they came down here. In four of these precincts they were duly challenged just as these 8,000 ballots were challenged and laid out. Notice that Colonel Thayer, in reference to these four precincts, shows that they were challenged and laid out just exactly as were the 8,000 or 9,000 ballots for the consideration of the committee.

Mr. WHEELER. Now will the Senator read just the next—

Mr. CARAWAY. I will read what Senator STEPHENS said.

Mr. WHEELER. And then Senator Brookhart and the chairman and Senator Brookhart's next statement.

Mr. CARAWAY. I believe I will let the Senator read it.

Mr. WHEELER. I think it ought to be read in fairness to the Senator, because it follows as a part of the statement; that is all.

Mr. CARAWAY. It follows exactly as part of some other statement:

Senator STEPHENS. Challenged because the packages were broken? Senator BROOKHART. No. There were shortages.

The CHAIRMAN. Just remember that that was not mentioned at any time.

Senator BROOKHART. The chairman says it was not mentioned, but Colonel Thayer says it was mentioned in this way, that we challenged and laid them out for the consideration of the committee.

The CHAIRMAN. Just like every vote was challenged from every source throughout the entire State.

Senator BROOKHART. We challenged them and laid them out for the consideration of the committee. I do not know what more I could have done to bring the thing properly before the committee. I was not trying to cover up anything; I was trying to make it as simple as possible for the committee. In respect to these 67 precincts the facts regarding their condition were duly noted. This board then made up this record of the recount. This Mr. Steck

introduces. He brings this contest against me. The burden is upon him to prove this contest, and unless he can prove it by his recount he is not entitled to set aside the official count on a Senator.

Of course, that had absolutely nothing to do with what I started out to say. Senator Brookhart says that if they had brought these ballots here according to the way he agreed they should be brought, he was estopped from disputing the genuineness of the recount. Well, he knew they were brought here exactly as he agreed they should be, because, after the machine votes had been taken up, his attorney, who entered into the first stipulation for him, and not he, and the attorney for the contestant, who entered into the first stipulation for contestant, and not the contestant, entered into a new stipulation. The very same persons who made the first stipulation modified it by a subsequent stipulation, which agreed that the votes should be brought here without the presence of either of the representatives of contestant or contestee, in registered mail sacks, with notations thereon as to the condition of the ballots.

That is the agreement. Senator Brookhart said that if they were brought here according to the agreement he is bound by it and can not raise this question now. They were brought here according to that agreement. They were brought here, and he knew it. His representatives saw every sack as they were opened. He knew everything about it. They counted them. They agreed upon them. They threw them back into the great bulk of more than 900,000 ballots. They brought the remainder to the committee and said: "Here is what is left for you to decide."

These affidavits and these letters show that the agreements made are a month old and over. Copies of them were given to Senator Brookhart, and from that day to this he has never denied them or acknowledge receipt of them so far as I know. One of those who make the affidavits is Colonel Thayer, the Secretary of the Senate. If he is not worthy of belief, then, of course, you have to accept Brookhart's statement that they changed the method of bringing the votes here without his consent, because that is what he says—not that they did not have an agreement, but that they changed the manner of bringing them here without his consent—and the record shows that they were brought here according to his agreement and by his consent and with his full knowledge of the manner in which they were brought, and they were recounted.

If you can not accept the agreement of counsel and if you can not accept the agreement of the supervisors affecting these 4,000 votes, how in the name of common sense can you accept it for 900,000 votes? If you can not accept the agreement of the supervisors and their attorneys as to what these votes were and how they should be counted, the only thing the committee could have done would have been to take every one of the million ballots and look at it itself. But the committee did what anybody would have done, and what every practicing lawyer in the Senate has done. After agencies had been agreed upon—and they were agreed upon—Mr. Mitchell was selected by Brookhart. He was his paid counsel. He was present when the outline of the method of bringing them here, and how they should be recounted, was discussed and agreed upon. They were brought here, and he knew it. They were recounted, and he knew it; and after they had been recounted, and he knew it, and after they had been reduced from the nine hundred and some odd thousand to 9,000, and he knew the method by which they had been reduced, he said, in effect, to the committee: "The only question about this matter that we want the committee to pass upon now is these 9,000 votes"; and he said: "If you will give us time, Mr. Parsons and I can reduce this 9,000, we think, very materially." We gave them a month, and after a month's time they came back and said: "We have gone all over these votes, and we have eliminated so many of them, and we have divided the others into 16 classes, and that is what we want you to pass upon and tell us who is entitled to receive them"; and that was what the committee did.

If the committee can not do that, it can not do anything. If you can not accept the last agreement, you can not accept the first. If you can not accept what they did at the very last, you can not accept what they did at the first. If you are going to repudiate the last agreement they made, you must repudiate the first, and you must say that the committee has to start over right where it commenced and look at every ballot itself; and there is not a Senator on this floor who will accept membership on that committee and agree to finger 900,000 ballots if they can be found. Some of them, by agreement, had been sent back to Iowa long before that, with Mr. Mitchell's assent and at his suggestion. Then they were not here. There was a great package of them here, some in Iowa, some of them nobody knows where, because they had agreed to the recount of them. They

said, "This represents what the voter actually did or intended, and we now ask you to pass upon this." If we could not accept that, then we could not accept anything they did; and if you are not going to accept the last thing that your contestee did, why do you not repudiate the first thing he did and say, as he said, "There is not any contest."

Senators, I am not so familiar with election contests as some of the Senators are. I have dealt with men of honor. I have practiced law, as most of you gentlemen have. I have yet to find a lawyer who entered into a solemn agreement and repudiated it when he found that it was to his hurt. There is not a court in my State—there is not one in yours, I am sure—that would let a lawyer practice law who would go into court and agree with his opponent that the evidence would prove a certain fact and after each was ready for trial on that agreement and say, "This is the only question in dispute," and then repudiate it.

If solemn agreements touching the most sacred questions by men who say they are worthy to have a seat in the Senate of the United States can not be accepted, and we are now to be reversed because after the agreement was made, and everybody had lived up to it, and everybody knew what was being done—they not only entered into the agreement, but they ratified every step of it—it is repudiated; if now, by mere suggestion, that whole agreement may be swept aside, I want to say, for one at least, that no friend of mine will ever sit in the Senate by my vote who gets there by repudiating his solemn agreement.

I do not care to what party he belongs. I do not care who he is. There is not a man sitting here on the floor of the Senate who would do it, I hope. And if ever I am a contestee here, and the result depends upon my repudiating my agreement in order to keep my seat, I hope that everyone of you will vote against me, because if I do I ought not to succeed.

Mr. FRAZIER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Arkansas yield to the Senator from North Dakota?

Mr. CARAWAY. I yield to the Senator.

Mr. FRAZIER. In this statement, where there are some one thousand and fifty-six discrepancies between the number of actual ballots and the polling list, how do you account for the discrepancies?

Mr. CARAWAY. I tried to do that a minute ago. I held up an envelope and showed how they sent votes here. I told the Senate that there was before the committee when this question was up, and just before the minority report was brought in, an envelope which showed so many votes defective, so many votes no votes, and so many votes disputed; and we opened that and found exactly the difference between the poll list and the vote.

There is to accompany the ballots from any precinct an envelope. Here is one. It says:

Defective ballot, eighth precinct, fourth ward, Des Moines township. Date of election, November 4, 1924.

It is signed by the election judges. They placed in these envelopes those that they decided were no votes, or defective votes. They also placed in most of them votes that were disputed, and these came here; and, what is interesting, when they had disputed votes in them, I am told they opened them. When it was shown by the indorsement on the envelope that there was not anything in them that could be counted, some of them were not opened at all. Now, here is one. It says: "Defective vote." You open it, and find this vote in it. They call it defective. We would have called it a good vote.

Mr. NORRIS. Mr. President, may I interrupt the Senator?

Mr. CARAWAY. Yes.

Mr. NORRIS. Of course the committee counted that vote for Steck, I presume; but how did they count it if they did not go into these ballots that I understood the Senator to say were not counted?

Mr. CARAWAY. I ought to have said that it was a Steck vote, and would by the committee have been counted; but when we open this envelope to determine these things we find that that is the kind of a vote they call a defective vote.

Mr. NORRIS. The question I am trying to get at is this—

Mr. CARAWAY. I know what the question is.

Mr. NORRIS. The committee, then, must have opened this envelope that was marked "defective ballot." Then were they not counted as defective ballots?

Mr. CARAWAY. The committee did not open those.

Mr. NORRIS. I do not understand how the Senator could have seen how the votes were cast without opening them.

Mr. CARAWAY. Let me explain that. None of these questions ever came to the committee. The committee was not as familiar with what was done in Iowa as either of the contestants was. Nobody said anything about this to the com-

mittee, but after the question was being discussed the committee asked the tabulator to see if he could find some of the envelopes, and among them we found this. We found one with four votes in it that were defective, or five, I do not remember which, which corresponded with the number of votes short, and we went through some of them to ascertain if that would not in some measure explain the difference.

Mr. STEPHENS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Arkansas yield to the Senator from Mississippi?

Mr. CARAWAY. I yield.

Mr. STEPHENS. How many such packages did you find unsealed?

Mr. CARAWAY. The Senator from Mississippi had one of them before him that exactly tallied.

Mr. STEPHENS. I dispute that.

Mr. CARAWAY. What did it show?

Mr. STEPHENS. I never had anything of the kind.

Mr. CARAWAY. Did you not have one of these before you in the committee?

Mr. STEPHENS. There was some discussion there about spoiled ballots. Spoiled ballots were not included at all by the committee in the count, nor were they considered. But that does not answer my question. You said you had the tabulators go over it. How many such packages did they find?

Mr. CARAWAY. I think three.

Mr. STEPHENS. They found three. How many ballots were in those three packages you found?

Mr. CARAWAY. The Senator had one before him and I had one.

Mr. STEPHENS. The question, however, is—

Mr. CARAWAY. Just wait a moment.

Mr. STEPHENS. The question I want answered is, How many ballots were in those three packages you found that had never been unsealed?

Mr. CARAWAY. I never saw one of them before they were unsealed. There was one of them there, and, the Senator's memory to the contrary notwithstanding, it had in it exactly the number of votes that were missing in the township. Every member of the committee knows it. It was there before the committee merely as a suggestion to possibly account for the vote.

Mr. STEPHENS. Let me ask another question.

Mr. CARAWAY. That is the way that happened.

Mr. STEPHENS. When did you ask the tabulator to search—

Mr. CARAWAY. The Senator was present when he was told if he could find some others—

Mr. STEPHENS. That is not my question. How many were found?

Mr. CARAWAY. I told you I had seen three, I think.

Mr. STEPHENS. Do you know of any more?

Mr. CARAWAY. No; I do not.

Mr. STEPHENS. Has the tabulator reported to you that he found any more?

Mr. CARAWAY. He has not.

Mr. STEPHENS. All right.

Mr. CARAWAY. It would not have done any good. When the Senator had one before him he paid absolutely no attention to it. What is the use of going ahead and presenting a fact when the decision has been made?

Mr. STEPHENS. Let me ask another question.

Mr. BINGHAM. Mr. President—

The PRESIDENT pro tempore. Does the Senator yield; and if so, to whom?

Mr. CARAWAY. I yield to the Senator from Connecticut.

Mr. BINGHAM. Will the Senator be so good as to tell us whether the committee examined all the envelopes that were marked as containing defective ballots?

Mr. CARAWAY. Perhaps there were not many of them left. The auditors had gone through those and made up whatever they thought they ought to count. They had thrown them back with the 900,000 votes that had been brought here and disposed of. Some of them doubtless had been torn up, some of them had gone back to Iowa, and some of them were thrown down in a great mass of papers.

Mr. BINGHAM. Were all of the envelopes containing defective ballots opened, then?

Mr. CARAWAY. I can not say that, because these auditors, who were to make this count, took their own course, and not a single vote could have been included or could have been rejected unless all three of them agreed to it, and how they agreed in each particular precinct I have no more idea than has the Senator from Connecticut.

Mr. BINGHAM. But the Senator must realize that if he is going to ask us to decide this contest according to the intent

of the voter—which is a matter I should like to discuss later, if I get the opportunity—and there were envelopes containing defective ballots which were never opened, it is impossible to tell how many of those ballots were thrown out where the intent of the voter was quite apparent.

Mr. CARAWAY. It is quite apparent that if the Senator is to determine the question only after seeing each ballot and deciding how it ought to have been counted, he will have to go and look through a million ballots.

Mr. BINGHAM. I understand the Senator says that the auditors examined 900,000, but did not examine all those in defective envelopes.

Mr. CARAWAY. This is what I said: I said the auditors determined what votes should be included and what votes should be excluded, and whether they were votes that should have been counted for one or the other in all these precincts, and the rule they adopted was one that the contestant and contestee agreed to; each one had a representative present. Whether they made a mistake, whether they did not look at some they ought to have looked at, whether they rejected some that ought not to have been rejected, I do not know, and I never could know now, because they are all mixed up. I never could have known unless I had looked at the 900,000 ballots.

Mr. NORRIS. Mr. President, I am anxious to find out just what the facts are in regard to those envelopes containing spoiled ballots or defective ballots.

Mr. CARAWAY. I have told the Senator all I know about it.

Mr. NORRIS. I want to ask the Senator to answer this, if he can: The auditors who were counting the ballots, in order to ascertain what the result was, would of necessity have been compelled, would they not, to have opened these and counted the ballots, or rejected them, as the case might have been, and if they did open them and the ballots were counted, then are they not included in the total number of ballots found for the respective precincts?

Mr. CARAWAY. That would be so if they had tabulated them, but if they were defective votes, and therefore would not have been counted for anybody, I do not know whether they tabulated them or not.

Mr. NORRIS. The Senator does not know what was done?

Mr. CARAWAY. No; I do not. I have explained that.

Mr. WHEELER. Mr. President, as I understand it, then, the Senator feels that the Senate should be bound by these tabulators and the figures they found, because of the fact that one of them represented Senator Brookhart and one of them represented Steck; that the Senate committee should be bound and the Senate should be bound by what they found, regardless of whether they made a mistake or not.

Mr. CARAWAY. I will ask the Senator a question.

Mr. WHEELER. I am asking him.

Mr. CARAWAY. Would the Senator object to answering?

Mr. WHEELER. Not at all.

Mr. CARAWAY. Is the Senator willing to accept anything that was done in the contest?

Mr. WHEELER. How is that?

Mr. CARAWAY. Does the Senator consider that he is bound by anything that was done in the contest?

Mr. WHEELER. Of course, I am bound by anything that is done that is fair to both sides, but I am not willing to be bound by the mistakes of men who were counting these ballots, if there were mistakes.

Mr. CARAWAY. I do not know whether they made mistakes or not, and the Senator never will know.

Mr. WHEELER. And nobody else will ever know.

Mr. CARAWAY. No, sir.

Mr. WHEELER. Then you are asking us to be bound by people who made mistakes.

Mr. CARAWAY. What is the Senator bound by? Here were two men candidates for office. If the Senator thinks he is committed to one of them, and therefore must not be fair to the other, of course, that settles it. I had thought that the Senate regarded itself as a body whose duty it was to determine who got the plurality of votes in Iowa. Of course, you can not bind anybody who wants to repudiate agreements that he has made.

There was a statement made to the effect that the Senator never heard of the discrepancy in the machine ballots. In the sixth item from the top in the tabulation it is said:

No poll list.

Yet the Senator from Nebraska said there was no way to show there was a discrepancy, when there was absolutely no poll list at all. In some places all the poll lists were gone. In some places only one or two of them were gone.

Mr. FRAZIER and Mr. BINGHAM addressed the Chair. The PRESIDENT pro tempore. Does the Senator yield; and if so, to whom?

Mr. CARAWAY. I yield to the Senator from North Dakota.

Mr. FRAZIER. In regard to those discrepancies on page 11 of your majority report, you state that there were a number of discrepancies, but you do not give the total number. You say that a recount was taken, that it did not agree with the poll lists, and that 68 townships were taken at random, and the recount gave the incumbent 275 more votes.

Mr. CARAWAY. Gave the contestant.

Mr. FRAZIER. It says the incumbent.

Mr. CARAWAY. That is a misprint.

Mr. FRAZIER. Perhaps it is. That is on page 11.

Mr. CARAWAY. It does not make any difference. I have explained all that anybody knows about it. Those Senators who want to repudiate an agreement in order to help the contestee will have to do it. It would be perfectly idle, everybody knows—and I would not be candid if I did not say it—that the committee did not count every vote of the million. They did not make any pretense of doing that. The record is full of statements that they never tried to do it. The committee accept the results as they are reflected in the agreements of this auditing board.

When the machinery to recount was set up under Colonel Thayer and the supervisor for Mr. Steck and the supervisor for Mr. Brookhart, they were told that if anything were found to which they wished to object they must object and refer it to the committee. With that understanding, they went to work and counted over 900,000 votes, and when they were through they had, in round numbers, 9,000 votes about which they did not agree. The attorneys representing the contestant and contestee said, "Let us have a little further time and see if we can not agree upon more of them." The committee gave them a month. They reduced these, in round numbers, to 4,000, divided into 16 classes, covered by 218 stipulations. Then they said, "We agree that No. 1 is not a vote for anybody." That class comprises 150 voters. The committee accepted that. No one looked into those 150 votes. That reduced these to 15 classes. Then they agreed upon class 3, and nobody differed with them about it, because they were presumed to be honorable men, they were presumed to be intelligent men, and they were representing hostile interests, one Steck and one Brookhart. They agreed how those votes should go, and we accepted that. Would the Senator have done that?

Mr. FRAZIER. I do not know anything about that—

Mr. CARAWAY. Would the Senator have done that?

Mr. FRAZIER. If I had found that neither one of them was correct, it seems to me—

Mr. CARAWAY. Wait a moment. Would the Senator have accepted it?

Mr. FRAZIER. I can not say whether I would or not, because I was not familiar with it.

Mr. CARAWAY. It does not make any difference whether you were familiar with it or not, would you have accepted the agreement of attorneys that the vote was so-and-so?

Mr. FRAZIER. I think so.

Mr. CARAWAY. The committee did, and accepted the recount in every other precinct in exactly the same way when the attorneys agreed upon it. You say you would have accepted that, but would have excluded the others. Why?

Mr. FRAZIER. When there were 1,068 precincts where there was a discrepancy, and, as found by the recount, in some few of them that there was a difference of some four votes to each precinct, if the same average should have gone through the 1,068, it would have made a difference of something over 4,000 in the vote.

Mr. CARAWAY. If the same average of 198 had gone through, it would have been a greater difference. But it is not a question of average; it is a question of fact. How far would you have agreed with the attorneys? They knew, Brookhart knew, and Steck knew, that there was a discrepancy between the actual votes counted and the poll lists, and they agreed upon that. They agreed upon these votes taken from precincts all over the State and put them in classes 1 to 16, and you say you would have accepted 1 and 3, and they came out of these very townships. You would have accepted those. Where would you have drawn your line and stopped accepting agreements of counsel?

Mr. BUTLER. Mr. President, I desire to ask the Senator with reference to the policy of the committee in connection with these stipulations.

Mr. CARAWAY. Very well.

Mr. BUTLER. Was it the policy of the committee to accept the stipulations as binding the committee?

Mr. CARAWAY. The stipulations were not to bind the committee. The stipulations were to point out all defects in these 4,000 votes which the committee was asked to pass upon.

Mr. BUTLER. I have understood from what has proceeded that the stipulations not only covered that matter but covered the question of what votes should be counted for Steck or for Brookhart in certain cases.

Mr. CARAWAY. In classes 1 and 3 that is true.

Mr. BUTLER. What I desire to ask the Senator is whether or not that bound the committee and whether it should bind the Senate?

Mr. CARAWAY. If that did not bind us and should not bind the Senate, then every agreement entered into ought to be repudiated, because they were all made by the same parties and all affected the result. If we can not accept those stipulations, then I do not know what we can accept.

Mr. BUTLER. The Senate ought not to put aside any stipulations. It is not a personal matter between those two men. It is a matter which affects the State of Iowa and also the exercise of our high privilege to vote in the matter.

Mr. CARAWAY. Where would the Senator begin to disregard stipulations?

Mr. BUTLER. That would be according to the finding of the committee.

Mr. CARAWAY. The committee accepted them all the way through. The committee thought everybody was bound by the stipulations.

Mr. BUTLER. That is all I wanted to know.

Mr. BINGHAM. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Arkansas yield to the Senator from Connecticut?

Mr. CARAWAY. I yield.

Mr. BINGHAM. I understood the Senator to say a few moments ago, with regard to the 3,300 ballots which were missing or the difference between the polling list and the ballots as counted, that it was his opinion that most of those ballots were defective ballots.

Mr. CARAWAY. If I said that was my opinion, I want to correct that statement. I said, or tried to say, that that fact possibly accounted for some of the discrepancies. I brought here one of the poll books, which shows in two instances where one name is written in over another. Evidently four ballots went in the ballot box, and two names were written on the polling list. That may account for others. The committee, as I tried to say and I speak for it only as I speak for myself, tried to accept the agreements and the acts of the parties themselves. With full knowledge of what had been done and what was being done and of the discrepancies, the committee realized that the representative of Steck and the representative of Brookhart and the Secretary of this Senate had agreed that certain votes should be counted a certain way, and we accepted that agreement.

Mr. BINGHAM. Does not the Senator think it is a very strange thing that there should have been envelopes which were not open or counted by anyone?

Mr. CARAWAY. The whole thing is just as strange as that. If the Senator thinks that the committee ought to know everything the recounters knew, then the committee ought to have done the recounting. It is perfectly idle to say that only this particular fact is strange of all the thousands of things they did that are not questioned. In other words, if we are going to accept what they did in one thing, then why can we not accept it in the remainder of them?

Mr. COPELAND. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Arkansas yield to the Senator from New York?

Mr. CARAWAY. I yield.

Mr. COPELAND. If it is agreeable to the Senator, I should like to return for a moment to Madison County, and to the Winterset case.

Mr. CARAWAY. What is it the Senator wants to know?

Mr. COPELAND. As I understand it, in counting the first ward the committee found that the poll list—

Mr. CARAWAY. No; the committee did not find it.

Mr. COPELAND. The auditors found that the poll list and the number of ballots did not agree.

Mr. CARAWAY. Yes.

Mr. COPELAND. Therefore, the committee agreed—

Mr. CARAWAY. No; the committee did not. The auditors themselves, representing Steck and Brookhart, agreed what they would do with that precinct, and the committee accepted what they did with that precinct just as it accepted what they did with 2,080 other precincts in Iowa.

Mr. COPELAND. I assume the Senator wants the Senate to accept it.

Mr. CARAWAY. I am satisfied that the Senate will accept it if it wants to do so. Some Senators have made up their minds, whatever the facts may be, that they pledged. Their minds were already made up and we would not be able to convince them.

Mr. COPELAND. After this explanation made by the Senator, may I ask him once more about Winterset, Madison County?

Mr. CARAWAY. Yes.

Mr. COPELAND. The poll list and number of votes did not agree?

Mr. CARAWAY. That has been said many times.

Mr. COPELAND. I would like to say it once more if the Senator does not object. So the official count was accepted. I hold in my hand the minority report and I find that in Guthrie County there was a similar situation, but the official count was not accepted.

Mr. CARAWAY. That is true. The Senator will find in all of the 1,068 townships there was a similar situation, and the official count was neither taken nor asked.

Mr. COPELAND. Why should not the same rule apply to these other precincts that applied to Winterset, Madison County?

Mr. CARAWAY. The explanation has been made, and I shall be delighted to make it again.

Mr. COPELAND. I hope the Senator will not feel disturbed at my request. I am anxious to be advised so I may know how to vote.

Mr. CARAWAY. The facts are these: When the supervisors representing Steck and Brookhart, of their own choice, and the Secretary of the Senate, the selection of the Senate, came to the first precinct of Winterset, they decided, because there was such a great discrepancy, that they would accept the official count. They made that agreement of their own volition. When they came to the other townships, as they came to a thousand and more of them, and found there were discrepancies, they applied the other rule. What is really interesting—and I started to talk about it once—is that where there was a 20-vote discrepancy in the other one the Senator asked about, the auditors of their own accord and without the knowledge of a single member of the committee agreed to count those. Later a lot of ballots were found that had been voted in that precinct.

Mr. COPELAND. But that would make an excess—

Mr. CARAWAY. Will the Senator allow me to finish? That is the reason why they were not included. There were 30 ballots found, or 24—

Mr. COPELAND. Was it not 34?

Mr. CARAWAY. A recount of the extra ballots increased Steck's plurality. Senator Brookhart's supervisor objected to them being recounted and they were not recounted, just like a whole township would not have been recounted if Steck's or Brookhart's supervisor had objected to it. These were not recounted, and they agreed to omit them, and did do it, although it hurt Steck.

Mr. STEPHENS. Mr. President, may I ask the Senator to what district he is now referring?

Mr. CARAWAY. Estherville Township, Emmet County. As I said, the auditors agreed to that. They took a short count when a longer count would have helped Steck, but the Brookhart auditor objected to it, and they did not urge it but let it go. They never came to the committee with it, although it hurt Steck, but his supervisor did not bring it to us, so nobody counted it and nobody asked to have it counted.

Mr. COPELAND. Is it not significant, if the same rule applied in Winterset, Madison County, had been applied to Guthrie County, Emmet County, and Wapello County, Steck's majority would have been overturned and Brookhart would have had a plurality?

Mr. CARAWAY. And if we had applied the same rule to the machine ballots the result would have been the other way.

Mr. WHEELER. There is a vast difference between a vote by a ballot and a vote by machine.

Mr. CARAWAY. Yes; I know—one is for Steck and the other for Brookhart. That is the difference.

Mr. WHEELER. There is a mechanical result actually registered and you can not change the result.

Mr. CARAWAY. But the recount did change it.

Mr. WHEELER. It did not change the machine, did it?

Mr. CARAWAY. The recount gave Brookhart 774 votes in excess of official count. The supervisors, representing the contestant and the contestee, and the Secretary of the Senate said, "Here is what the recount shows," and the Senate committee accepted it because it did not feel that it was holding

a brief for either Brookhart or Steck. Whatever the result was it accepted it. It did not change the rule when it helped one any more than it did when it helped the other. It was not considered in that way. The committee did not feel that it represented anybody except to ascertain what actually did happen in Iowa. That seems to have been the wrong rule, according to the contention of some Senators now.

Mr. COPELAND. Mr. President, I do not want to seem insistent or disagreeable, but I am forced to believe that the committee accepted from the auditors certain conclusions which would not be binding upon the Senate.

Mr. CARAWAY. They are not binding on the Senator. But here is the question: I have practiced law for a long time. I never knew a lawyer to repudiate his agreement. If it seems to the Senator from New York that he ought to profit at first by entering into an agreement and letting all the evidence be developed under that agreement, and after they had all concluded then repudiate his agreement, then the Senator is going to do it.

Mr. COPELAND. The committee was appointed to reach a conclusion in this contest.

Mr. CARAWAY. And it did.

Mr. COPELAND. And yet—

Mr. CARAWAY. Let me ask the Senator a question. Where would the Senator commence disagreeing?

Mr. COPELAND. I do not know where I would begin, but I do find here certain items which, to my mind, are not clear. It is very apparent, if the rest of the report of the committee is correct, that if these items are rejected by the Senate, Mr. Brookhart is elected.

Mr. CARAWAY. But all the other conclusions of the committee rest upon the same source of information, and that is the agreement between the auditors. If we are not to accept them in this case, why not repudiate them in all cases? Why do you want to repudiate when it helps Mr. Brookhart to repudiate, and stand by it when the agreement hurts Mr. Steck? What is the moving spirit that makes the Senator reject the auditors' agreements when they hurt Mr. Brookhart and accept them when they hurt Mr. Steck?

Mr. COPELAND. I have not made any decision about the matter, but I say that here is a thing which is as clear as mud, and the Senator as yet has not enlightened me, because of my stupidity undoubtedly. It is very clear to me that the same rule which applied to Winterset, Madison County, should have been applied in the other cases.

Mr. CARAWAY. The Senator believes in abiding by the same rule, does he not?

Mr. COPELAND. I do.

Mr. CARAWAY. When he rejects the agreement in Winterset, why does he not object to the agreement in all other counts?

Mr. COPELAND. I do not know that I have. I have not come to the other counties.

Mr. CARAWAY. The Senator is bound to do it because he wants now to reject the conclusion of the auditors in Winterset, but does he want to accept their conclusion in the other cases?

Mr. COPELAND. I am not asking to reject what the auditors said. I want to know what the committee said. Did the committee decide that Mr. Brookhart was or was not entitled to those votes, and was it because of opinions based upon substantial evidence which justified that conclusion?

Mr. CARAWAY. Here is what the committee did, and the Senator does not misunderstand it. The committee accepted the conclusion of the supervisors in every instance.

Mr. FRAZIER. Mr. President—

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

Mr. CARAWAY. I will yield in just a moment. It accepted it every time, and what is remarkable is that there is not a Senator who has risen on the floor to question the soundness of accepting it where it hurt Mr. Steck. The only time they want to repudiate an agreement is when the agreement apparently hurts Mr. Brookhart. If the Senator feels that the committee ought to have held a brief for Mr. Brookhart, I know for one member of the committee, a mistake was made in selecting me, because it did not make any difference to me which was elected. The committee never looked to a total until they had decided each contested ballot. We did not care whether it hurt Steck or Brookhart; we accepted it on either side. Now, it is a little remarkable, is it not, that Senators want to be bound by every agreement that hurts Steck and repudiate every one of them, though made by the same parties and under the same circumstances, if they hurt Mr. Brookhart. They may do so, of course.

Mr. WHEELER. Mr. President, will the Senator yield.

Mr. CARAWAY. Let me yield first to the Senator from North Dakota.

Mr. FRAZIER. Is it not up to the contestant to prove his points against the man whose seat is being contested?

Mr. CARAWAY. Who is questioning that proposition?

Mr. FRAZIER. You are doubting our questions here and impugning our motives. At least that is my impression.

Mr. CARAWAY. I do not have to do that; some things are self-evident. Here is what I said. Every one of these votes was determined by those same auditors, and we accepted their conclusion when they reached it and nobody has ever questioned one of them if it hurt Steck. They have questioned only those that hurt Brookhart. What I want to know is, what is there more sacred about one of them than there is about the other?

If you are going to reject every one of the conclusions and every act of the board of supervisors, do so; but if you are going to accept some of them, then why should you not accept all of them? They depend upon exactly the same men; they rest upon exactly the same state of facts; and they were treated exactly alike by every member of the committee.

Mr. WHEELER. Mr. President, will the Senator yield to me?

Mr. CARAWAY. Yes; I yield.

Mr. WHEELER. In Winterset the poll books and the votes differed, did they not?

Mr. CARAWAY. That has been admitted.

Mr. WHEELER. And in the other cases there was identically the same situation, but the counters, or whatever one may call them, applied one rule in one case and they applied another rule in another case, did they not?

Mr. CARAWAY. No; they applied the same rule.

Mr. WHEELER. How did they apply the same rule?

Mr. CARAWAY. Will the Senator let me proceed? It has been explained. They determined it was the fairer way to do it.

Mr. WHEELER. Based upon what? What did they base it upon?

Mr. CARAWAY. It was based upon their judgment. Some questions are obvious; but if one is unwilling to accept any conclusion where that conclusion is hurtful to one of the contestants in this case, there is no use to waste any time arguing about it.

Mr. WHEELER. What I am trying to get at is why they did not reach the same conclusion upon the same state of facts in each case. They have not done it, it seems to me.

Mr. CARAWAY. Who have not done it?

Mr. WHEELER. I say the counters have not done it.

Mr. CARAWAY. Then the Senator is falling out with the counters.

Mr. WHEELER. The Senator is asking us to accept his conclusions—

Mr. CARAWAY. I am not asking the Senator to do so. I know the Senator is not going to accept them; and I knew that, as did everybody else, long before the recount was ever taken.

Mr. WHEELER. They did not know it any more than that the position of the Senator from Arkansas was going to be on the other side, so what is the difference?

Mr. CARAWAY. On what fact does that rest?

Mr. WHEELER. The same sort of facts upon which the Senator from Arkansas bases his statement. The Senator is impugning the motives of everybody who does not agree with him.

Mr. CARAWAY. I was only accepting what the Senator himself told me, and he will not deny it.

Mr. WHEELER. The Senator will not accept anything that I tell him.

Mr. CARAWAY. I thought honestly when the Senator told me where his prejudices lay in the case that I could believe him.

The PRESIDENT pro tempore. Senators participating in debate must follow Rule XIX and address the Chair; otherwise the Chair will have to instruct the Official Reporters not to take the debate down.

Mr. CARAWAY. Very well.

Coming back to the question, I never saw one of the supervisors, so far as I know, until long after the vote had been recounted and the attorneys came here to argue the case. I never saw one of them to know him except the brother of the contestee, Mr. Brookhart. I may have seen them, but I did not know them.

In order to answer the Senator's implication, which he knows is not justified in fact, let me say that I never refused to accept a single conclusion they reached. Therefore the statement the Senator made that I was in the same condition he

was when I went on the committee is absolutely refuted, and he knows it. What I did was to accept every conclusion that the auditors made, whether it helped one or helped the other, and the difference between the Senator and myself is that he accepts all of them that help one party to the contest and rejects all of them that help the other. He says that our positions are the same. It is so obviously not true that he knew it to be untrue when he made it.

Mr. DILL and Mr. LENROOT addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Arkansas yield; and if so, to whom?

Mr. CARAWAY. I yield first to the Senator from Washington.

Mr. DILL. I wish to ask a question concerning a matter that I have heard no mention of, and I want to know about it for information. Was there any charge by either the contestant or the contestee that there was any fraud in the vote?

Mr. CARAWAY. Absolutely not; and after the recounting they repudiated the idea of fraud.

Mr. DILL. I am speaking of fraud in the vote in Iowa.

Mr. CARAWAY. That is what I am saying, that no charge of fraud and no question of fraud was ever brought to the committee. The only question that was brought to the committee was that of a recount; that is all.

Mr. LENROOT. Mr. President—

Mr. CARAWAY. I yield to the Senator from Wisconsin.

Mr. LENROOT. I should like to understand a little better the functions of the auditors. I supposed that the function of the auditors was simply to recount the ballots which were brought here. Is not that true?

Mr. CARAWAY. No; it went beyond that. The auditors were to recount the vote; and where the three men agreed that a vote went a certain way, then they passed that vote over to the tabulators to be credited to whichever one of the parties to the contest was entitled to it; but where they could not agree, then they put that vote aside as a challenged vote and brought it to the committee. That is all the auditors had to do.

Mr. LENROOT. Yes; but it was no function of the auditors if there was a discrepancy between the ballots counted and the names on the poll lists to determine whether the recount should be accepted or not. Was not that for the committee to determine?

Mr. CARAWAY. No; that question never was brought to the committee; I never so understood it.

Mr. LENROOT. Let me put it in this way: It was not the function of the auditors to determine that question, was it?

Mr. CARAWAY. I think the auditors had to determine every question that arose in the recount; and if they could not agree about it, then they brought that question about which they could not agree to the committee. But as to any question about which they could agree, that never came to the committee.

Mr. LENROOT. Again, was there any jurisdiction in the auditors to pass upon other than questions of fact and their conclusion upon those facts?

Mr. CARAWAY. Every vote involved a mixed question of law and fact.

Mr. LENROOT. Certainly that is true as to the ballots themselves.

Mr. CARAWAY. The representatives of the contestant and the contestee were to agree upon every question about which they could agree, and if they could not agree the question then was to be left for the committee to pass upon.

Mr. LENROOT. I shall state the point I was getting to; but, first, let me say that I can see where a discrepancy of a few votes would be laid to a natural error such as the Senator has indicated. In case of a very large discrepancy, however, it seems to me that the question involved would have to be determined by somebody other than the auditors. I find in one case—and I find only one—a large discrepancy that seems to be in no way accounted for—a discrepancy of 600 votes in one county.

Mr. CARAWAY. I do not think that is correct; but it may be so; I do not know as to that.

Mr. LENROOT. I read from the tabulated list.

Mr. CARAWAY. Was that on the machine vote?

Mr. LENROOT. I do not know whether it is the machine vote or not. It seems to be Sioux County.

Mr. CARAWAY. The tabulation includes both machine and other votes.

Mr. LENROOT. The case I refer to is where the return is 8,511, while the number of names on the poll list is 9,138. The figures are near the bottom of the tabulation, and are from Sioux County, I think.

Mr. CARAWAY. What county?

Mr. LENROOT. Sioux County, which is listed about 16 from the bottom of the page.

Mr. CARAWAY. I will find the county.

Mr. LENROOT. The Senator will find the figures 9,138 if he will look in the last column to the right near the bottom of the page.

Mr. CARAWAY. I have that.

Mr. LENROOT. The votes returned are 8,511. So there seems to be a discrepancy of 627 votes there.

Mr. CARAWAY. I do not know as to that, and I presume I had better secure accurate information before I undertake to answer the Senator's question.

Mr. LENROOT. My point is that when there is so large a discrepancy as that unaccounted for, does it not create a different question than when there is merely a discrepancy of three or four or a half a dozen votes?

Mr. CARAWAY. It would not, in my judgment, create a different question, although it might create in the mind of a Senator a question whether or not he wanted to follow the agreement.

Mr. LENROOT. That is what I mean.

Mr. CARAWAY. It is, however, exactly the same question, because if they have a right to go ahead where the discrepancy is one vote, they have a right to go ahead where it is a hundred votes, because the same right of exercising a discretion is involved; it deals with the vote; it is only a question of whether we are willing to follow them or not; that is all. It is possible that there is no such discrepancy, and I am sure there is no such a discrepancy in any county. I think what the Senator has called attention to is susceptible of explanation; but I do not want to make it when I do not know the facts with accuracy.

Mr. JONES of Washington. Mr. President, will the Senator yield?

Mr. CARAWAY. Yes.

Mr. JONES of Washington. Was it understood by the contestant and the contestee that where the auditors agreed, their agreement would be accepted by the committee?

Mr. CARAWAY. Yes; and it was accepted.

Mr. JONES of Washington. Was that included in the stipulated rules and written in any way on the record?

Mr. CARAWAY. Not in that exact language.

I might say at this point, Mr. President, that the then Senator from Missouri, Mr. Spencer, was chairman of the Committee on Privileges and Elections at the time this contest was instituted. Unfortunately he died, whereupon the Senator from Kentucky [Mr. ERNST] became the chairman of the committee. On the first meeting of the committee after he became its presiding officer, which was on July 20, 1925, the whole outline of what was to be done by the auditors was then presented to the attorneys for the contestant and the incumbent, the method that they should pursue, and what the duties of the supervisors should be. All that was agreed to, and under that the recount was had. Every paper ballot was brought here and counted under the supervision of representatives acting for the contestant and the contestee or incumbent. The agreement and the line pointed out was followed; the votes were counted, laid aside, and tabulated, and the result declared in each precinct according to the agreement that was followed literally down to the very last vote.

Mr. NEELY. Mr. President—

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from West Virginia?

Mr. CARAWAY. I yield.

Mr. NEELY. Mr. President, did Senator Brookhart and Mr. Steck acquiesce in the agreement that was made by their respective attorneys?

Mr. CARAWAY. Absolutely; there was not any dissent or any intimation of a dissent until the result was apparent.

Mr. NEELY. And acting under that agreement, as I understand, after about 985,000 votes had been counted, the attorneys for the contestant and the contestee came back to the subcommittee and stated, in effect, that they had been able to eliminate all contentions and controversies arising out of or involved in those 985,000 votes, and left the subcommittee the task of determining how approximately 4,000 votes should be counted. Is that correct?

Mr. CARAWAY. That is correct.

Mr. NEELY. Did Senator Brookhart and Mr. Steck, the contestant, acquiesce in that submission?

Mr. CARAWAY. Absolutely. No objection was made, as I have said, until the tabulation was gone over by the attorneys and until the arguments themselves commenced, and when it became apparent what the result was. Then was the first dissent from the method of procedure which had been outlined and followed.

Mr. WALSH. Mr. President—

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from Montana?

Mr. CARAWAY. Yes.

Mr. WALSH. It would be exceedingly helpful if the testimony with respect to these matters concerning which the Senator has been interrogated by the Senator from West Virginia should be read.

Mr. CARAWAY. I can find it in a moment. On pages 62 and 63, here is what was said:

Mr. PARSONS. Mr. Chairman, all I have to say is this, we thought that the vote was so close in that State, and many things that we have heard led us to believe that a great many votes had been wrongly counted, and for those reasons we began the contest, believing, of course, that Mr. Steck had received an actual majority of the votes cast. In Iowa we vote by two methods. We vote on a machine in some places. About a third of the votes in the State of Iowa I suppose are cast on a machine. We also vote by the Australian ballot. The machines were subsequently checked up, and instead of that vote being accurate, I think it was more inaccurate than the vote on the ballot, through the failure of the judges to make a proper report. Most of our machines provide for keeping a straight ticket vote, and also a scattering vote. In many of the precincts in the reports that were made they left out the State party vote, so that that would have to be added. There were more than enough changes made there to have swung the election one way or the other.

The ballots were all ordered to Washington, and they have been gone through. The tabulator for the committee has made up his tabulation of the votes that have been agreed on. I think somewhere between eight and nine thousand votes are in dispute. We had hopes to have those ready to submit to the committee by this time. Mr. Mitchell and I have been going over those votes, and we have eliminated most of them. In fact, most of them will be eliminated, and others will be so conclusive and will fall into classes that the committee will be saved the trouble of looking over the individual votes except in a few instances. We have not yet concluded that task. So far as I am concerned, I am not ready and neither will the Government be ready to go on with the contest, I take it, at this time. It will take two or three days yet to complete that. It will save an immense amount of time if it is done.

Senator WATSON. You mean the votes that have been challenged?

Mr. PARSONS. Yes, the votes that have been challenged.

Senator WATSON. That is to say, all told, both sides, or only one side?

Mr. PARSONS. Both sides. There is a little less than 9,000, although I do not remember the exact number. We have checked them over and we will be able to eliminate a great many of those, through mistakes made by the supervisors for the parties. I do not mean by the supervisor appointed by the Senate, but by those appointed on each side. They made mistakes in making challenges that perhaps neither Mr. Mitchell nor I would have made if we had been here. We have eliminated quite a bunch of those votes, and by the time we get through we will have eliminated four or five thousand.

The CHAIRMAN. And those who are interested in the contest were also permitted to go over them with you?

Mr. PARSONS. Yes. They have not been heard, but I suppose they have that right.

The CHAIRMAN. They have not requested it?

Mr. PARSONS. No.

Senator WATSON. In other words, they are not interested in counting the ballots, but they come in on another issue.

Senator GEORGE. All of the ballots cast in the election have been brought to Washington and have been gone over?

Mr. PARSONS. Yes.

Senator GEORGE. And there is no dispute arising about any omission of ballots?

Mr. PARSONS. None that I know of.

Mr. MITCHELL. There may be a question of discrepancy between the ballots and the poll books.

Mr. PARSONS. There may be in one or two cases.

Senator CARAWAY. How many votes will likely be involved in that?

Mr. MITCHELL. I would not think more than 200 or 300.

Senator CARAWAY. Do you propose introducing oral evidence to settle that controversy, or is there some other means?

Mr. MITCHELL. It will be simply a matter of record with the ballots, and the record of the final report.

Mr. PARSONS. Of the poll judges. I think, however, some discrepancies will arise that may be explained. We have in Iowa what is called the absent voter's law, and those votes are sent in and those parties are not there to register. I think in some of the cases that the judges failed to put their names on the books, and, therefore, there would be a slight excess of ballots in those precincts.

The CHAIRMAN. When do you think you will be ready?

Mr. PARSONS. I think I can be ready absolutely and completely by Monday next.

The CHAIRMAN. Mr. Mitchell, what do you think about it?

Mr. MITCHELL. I agree with Mr. Parsons on that proposition.

That is what the committee had before it.

Mr. JONES of Washington. Mr. President, will the Senator yield?

Mr. CARAWAY. Yes, sir.

Mr. JONES of Washington. I find in the majority report, on page 14, the following:

Result of good votes after ruling by committee.

The first line says:

Agreed good votes (supervisors and attorneys)—

As I understand, those are votes that are agreed to be good votes both by the supervisors and by the attorneys for the contestant and the contestee.

Mr. CARAWAY. That is it.

Mr. JONES of Washington (reading)—

Brookhart, 443,831; Steck, 449,197.

Did those agreed votes include, for instance, these votes in Winterset, Madison County, and in these other precincts where apparently a different rule was followed but where the supervisors agreed to the figures?

Mr. CARAWAY. Absolutely. They included every vote except the 9,000 votes that were taken from all over the State of Iowa.

Mr. JONES of Washington. So that the attorney for the contestant made no objection to the conclusion of the supervisors with reference to these different precincts where it looks as though they had followed one rule in one case and another rule in another case?

Mr. CARAWAY. Absolutely. There was not a thing of that kind, Senator. The only question—and that was the first time it came here—was when Mr. Mitchell said:

There may be a question in regard to two or three hundred votes.

But he never undertook to show the committee from that day until he concluded his case where those two or three hundred votes were. It just passed out with that statement when he said:

There may be a question.

Mr. JONES of Washington. And the attorney for the contestant never raised any question before the committee as to the proper or improper action of these supervisors where they apparently applied one rule in one precinct and a different rule in another?

Mr. CARAWAY. There was not a question of the acts of the supervisors raised from beginning to end; but at the point I have referred to Mr. Mitchell said that there might be this question about the two or three hundred votes. That was before the argument. He never returned to that; but in the argument of the case he referred to some things of that kind and said that they were not conclusive of that fact, but were suggested for argument. I shall be glad to call the Senator's attention to the pages.

Mr. STEPHENS. Mr. President, will the Senator yield for just a moment?

Mr. CARAWAY. I yield to the Senator from Mississippi.

Mr. STEPHENS. With reference to this matter, if I understand correctly what the Senator from Indiana [Mr. Watson] had in mind, I desire to ask the Senator from Arkansas if this is not a fact:

When the ballots from a precinct were examined and counted and it was found that there was anything wrong with the condition of things with reference to those ballots—packages being sealed or unsealed, broken or unbroken, with reference to discrepancies, missing ballots, and so forth—were not the workers, whatever they were called, required to put on what they called the work sheet a notation with regard to these matters, so that this particular defect might be brought later to the attention of the committee?

Mr. CARAWAY. No; there is not a thing in the whole record to support that contention.

Mr. STEPHENS. Very well.

Mr. CARAWAY. Here is what did happen: In some of the townships they did note on the work sheet that these ballots came unsealed; but I hold in my hand the work sheets from 67 townships in which the ballots reached the Senate in unsealed packages, evidently many of them with the discrepancies in the vote, and there is not a single scratch on them to indicate that fact. The auditors paid absolutely no attention to it. Here they are, right in my hand. The only indorsement

they put on it was "16 no votes," and they signed it. They put up here the tabulation of how many votes Steck got, and how many votes Brookhart got, and the class in which they fell, and then they said:

Sixteen no votes.

That is, there were 16 votes in that precinct that were not counted for anybody, and they signed it, and then Colonel Thayer O. K'd it, as he did all the other work sheets, and then that work sheet went to the tabulator, and composes a part of the record in this case.

Mr. STEPHENS. Now, let me ask the Senator another question. Referring to Bear Grove Township, Guthrie County, under the head of "Remarks," the following appears:

Chief supervisor finds only 236 ballots in recount.

Mr. CARAWAY. Yes; there is a remark there.

Mr. STEPHENS (reading)—

Number of names on poll list, 250.

Mr. CARAWAY. Yes.

Mr. STEPHENS. Then there is the Estherville precinct, to which the Senator referred.

Mr. CARAWAY. Yes; they are treated in the same way.

Mr. STEPHENS. That is the very question I asked—if they did not show the number of names on the poll list, the number of ballots found, sometimes going so far as to state the number of missing ballots, and in some simply stating the total?

Mr. CARAWAY. That is true. Sometimes it was done and sometimes it was not. I think out of a thousand and some odd townships they stated these things in possibly four. In the rest of them they did not. In the case of the machine votes they did not state them at all, and none of them ever insisted that we ought to have reversed the action of the auditors, because they agreed on what they did.

Mr. JONES of Washington. Mr. President, will the Senator yield?

Mr. CARAWAY. I yield.

Mr. JONES of Washington. Was it distinctly understood by the committee that one of these auditors or supervisors was the special representative, for instance, of the contestant and that one of them was the special representative to look after the interests of the contestee?

Mr. CARAWAY. That is so, Mr. President; and they were instructed that they should preserve whatever objections they wanted to for the interest of the party they were looking after. They were the personally selected counsel and representative and agent of the party that selected them.

Mr. JONES of Washington. How was the selection made? Was it made by the contestant and the contestee personally, or by their attorneys, or in the presence of the committee, or how?

Mr. CARAWAY. I do not know, Mr. President. The contestant was allowed to name anybody he wanted, and the contestee, or the incumbent, was allowed to name anybody he wanted. Whoever they named the committee never questioned. They changed them when they wanted to. The contestee in this case had three. He first started out with a man by the name of Cook. For some reason Cook quit, and then the contestee, Mr. Brookhart, put on his secretary, and for some reason he did not go forward very long, and then he brought here his brother, a lawyer with whom he had been formerly associated in practice, and he was his representative. Whichever they wanted they selected.

Mr. JONES of Washington. And the committee understood that that selection was the partisan of the person selected?

Mr. CARAWAY. Absolutely, and put on there for that purpose, for the express purpose of protecting the interests of the party who named him, and the record shows that. I shall be glad to go over the record and put that in the Record. They named whomever they pleased, and these men were to be their special particular representatives. The man could be lawyer or layman, brother or stranger, anybody they wanted to name. The committee did not care who it was. They selected whomever they wanted.

Mr. COPELAND and Mr. BINGHAM addressed the Chair.

The VICE PRESIDENT. Does the Senator from Arkansas yield; and if so, to whom?

Mr. CARAWAY. I yield first to the Senator from New York.

Mr. COPELAND. Mr. President, the Senator from Washington [Mr. JONES] has referred to the agreed good votes and the stipulation.

Mr. CARAWAY. Yes, sir.

Mr. COPELAND. In spite of the stipulation, if it were shown here that the attorneys and supervisors had erred, I assume that the committee would be glad to revise the opinion they formed?

Mr. CARAWAY. The committee accepted everything the auditors did. The attorneys accepted it. Nobody challenged it. Now, then, if some one comes here and says that this does not look like a wise rule, that we ought not to have let the auditors do it, that is a question for each individual Member of the Senate. The only thing that I wanted to say, and I say it again, is this: There are decisions here that hurt both sides, and there are decisions that help both sides. For instance, there were 30 votes found that everybody knew had been cast.

They were not with the regular batch of votes. They would have given Mr. Steck a very decided majority. Mr. Brookhart's supervisor said, "We do not think you ought to count them. They were not in the regular batch." Mr. Steck's supervisor said, "All right; we will let that go." They rejected them, and the committee never questioned it. They disposed of the precinct of Winterset in exactly the same way. They disposed of 1,056 townships in exactly the same way. They accepted in exactly the same spirit the recount on the machines, which gave Mr. Brookhart 774 plurality more than he got in the official count, although some of the poll lists were entirely gone; some of the books were gone. They made no question of that. Mr. Steck never questioned it, and nobody on the committee questioned it. They accepted it, because the board of supervisors accepted it. The committee accepted every agreement that both contestee and contestant made, and lived up to it. They did not question the good faith of either, and there was not a single person who ever questioned the wisdom of following that course until after the result was apparent.

Mr. BINGHAM. Mr. President—

Mr. CARAWAY. If some Senators think that we should have held a brief for some particular man in this contest, not to let him be overreached, and to repudiate for him every agreement he entered into where he lost a vote, they made a mistake, because the committee held both of them to their agreements and accepted the agreements of the board of supervisors in every township, and upon that the result is based.

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

Mr. CARAWAY. I yield.

Mr. BINGHAM. I would like to ask the Senator whether the committee found any evidence of intimidation at the polls.

Mr. CARAWAY. That question was not even raised. There is not a suggestion, from beginning to end, that there was any intimidation, or that there was any actual fraud. There was not a suggestion that anybody tried to be crooked, or that anybody did not get to vote who wanted to vote. None of those questions was ever raised in the contest. The only thing in the contest, if the Senator from Connecticut will pardon me, was this: Who is entitled to be accredited to the Senate because he got a plurality of the votes cast? The question of a man's right to vote was not raised. It is presumed that everybody in Iowa was allowed to vote—once, at least.

Mr. BINGHAM. There was no evidence of corruption?

Mr. CARAWAY. Not even an intimation of it.

Mr. BINGHAM. There is no question but that the certificate which was received here, signed by the officials of Iowa, is in correct form?

Mr. CARAWAY. Nobody has questioned that.

Mr. BINGHAM. There is no question but that the proper officials of the State of Iowa certified to the election?

Mr. CARAWAY. The Senator knows that.

Mr. BINGHAM. What I should like very much to have the Senator explain to me is this: In view of the fact that there was no fraud, no corruption, no intimidation, no irregularity of the certificate, apparently no irregularity in the election, on what theory, then, did the committee overrule the certificate of the State of Iowa and proceed to count the ballots?

Mr. CARAWAY. The Senator evidently does not even take into consideration how a contest, where it is a question of how the votes were counted, arises. It is to ascertain whether or not the votes that were cast for the contestant or the contestee showed one or the other to have a majority. That was the only question raised in this case. That was the only question the committee undertook to decide, and that is what they did decide.

Mr. BINGHAM. The Senator has stated very clearly that certain stipulations were entered into by the contestant and the contestee. Were those stipulations agreed to by the officials of the State of Iowa? Were the agreements of the supervisors and the rules which they adopted for the opening or the not opening of envelopes agreed to by officials of the State of Iowa?

Mr. CARAWAY. No. The truth about the matter is that if the committee had listened to the Republican Party, which is the controlling party in Iowa, it would have found that Mr. Brookhart got all of his votes by pretending that he was a Repub-

mean when he was not. It came here with a contest, and the committee then said that it would not go into the question of the psychology of the voters. The Republican Party wanted to unseat Mr. Brookhart because it said he swore that he was a Republican when he was not a Republican.

Mr. BINGHAM. The Senator will realize that I am not referring to the officials of the Republican Party; I am referring to the State of Iowa.

Mr. CARAWAY. If the Senator from Connecticut thinks that the returning board of Iowa has a right to certify anybody as elected it wants to, and that we must accept that certificate, then, of course, he would not think there could be any contest.

Mr. BINGHAM. In that case there would be fraud, would there not?

Mr. CARAWAY. I do not think so, under the Senator's view of what constitutes fraud.

Mr. WALSH. The contest of Mr. Steck contains this statement:

The said contestant, Steck, avers that in truth and in fact there were cast at said election several thousand more votes for the contestant, Steck, than were cast for said incumbent Brookhart for said office of United States Senator from the State of Iowa for said term, and the said contestant further avers that there were errors and irregularities in said election affecting the result, which, if corrected, would show that this contestant received a majority of the votes cast at said election.

It seems to me that fully justified the committee in recounting the votes.

Mr. CARAWAY. I thank the Senator. The contestee denied all of that under oath, and then himself urged certain other irregularities. Each one of them wanted a recount, and got it, under the exact rules each agreed to, and under the exact rules each thought would bring out the correct result.

Mr. GLASS. Mr. President—

The VICE PRESIDENT. Does the Senator yield to the Senator from Virginia?

Mr. CARAWAY. I yield.

Mr. GLASS. I simply wanted to remark that the inference drawn by the Senator from Connecticut would lead us to the conclusion that the Senate of the United States is not, under the Constitution, the judge of the elections and qualifications of its own Members, but that the Senate must implicitly accept, and may not ever go behind, the certificate of the State.

Mr. CARAWAY. Of course there never would be a contest if the view of the Senator from Connecticut prevailed.

Mr. GLASS. Never.

Mr. BINGHAM. Will the Senator permit me to answer that?

Mr. GLASS. The Senator can not answer it. I will let him try.

Mr. BINGHAM. May I try?

Mr. CARAWAY. Please be brief about it. I want to call attention to one other thing.

Mr. BINGHAM. Article 1, section 4, of the Constitution of the United States, states that the legislatures of the States shall prescribe the manner, place, and time of holding elections. In other words, the legislatures of the States shall say how the citizens are to vote. Article 5 states—

Mr. CARAWAY. May I just state that the Senate is not trying to deprive Iowa of the right to hold an election in any particular balloting place.

Mr. BINGHAM. But it seems to me that the Senate of the United States through this committee, which the Senator so ably represents, is attempting to deprive the State of Iowa of the privilege of saying how the citizens of Iowa shall vote.

Mr. GLASS. Is that the Senator's answer to my suggestion?

Mr. COUZENS. Mr. President—

Mr. CARAWAY. I yield, because that question answers itself.

Mr. COUZENS. I would like to ask the Senator if he contends that in case the contestant or the contestee selects a supervisor or representative who does not in his opinion represent him properly, that either of them is bound by the decision of such supervisor, or that the Senate is bound by such decision?

Mr. CARAWAY. If it could be shown, or was suggested, or was even to be inferred, that there was collusion between the supervisor representing the contestant and the supervisor representing the contestee, by which they agreed to reach a fraudulent result, nobody would be bound by it. But as long as they are presumed to have been men of honor, men of high character, men who were seeking to represent and protect the interest of the contestant and of the contestee, respectively, there is not a court on earth that would not hold them to any agreement

they entered into unless it can be shown that they were overreached in making it.

This is what was done: The contestant and the contestee selected his representative, partisans of theirs, whomever they wanted. In the one case, at the last, was the brother of the contestee, Mr. Thomas Brookhart. They passed upon these questions, and agreed that the results were as I have stated. That agreement was ratified by their attorneys, Mr. Mitchell, a man of high character—I know the senior Senator from Iowa [Mr. CUMMINS] will bear witness to that—and Mr. Parsons, against whom no charge is made. They agreed about this matter. They then, by stipulation, brought down the very last vote, and they asked us to pass upon the ballots. Should we not have accepted their agreements?

Mr. COUZENS. If the contestant or the contestee found that something which had occurred, such as that to which the Senator from Mississippi just referred, was not in accordance with his judgment, or thought his representative had erred, does the Senator contend that he has no right to open it up again?

Mr. CARAWAY. He would have to do it, in my opinion, with proper proof of the fact. He could not come in and complain of the result after he found out he was beaten and say, "I do not want this agreement to be kept because it hurts me." But if it were found that the contestant or the contestee was represented by either an idiot or a crook, then he ought to repudiate everything he did. He should not wait until he finds something that would hurt one and help the other and say "I will accept this and repudiate that; I accept all his acts that help me but I repudiate all his acts that hurt me." In good morals and good conscience nobody can take any such course.

Mr. JONES of Washington. Mr. President, will the Senator yield?

Mr. CARAWAY. I yield.

Mr. JONES of Washington. Did either the contestant or the contestee complain to the committee at any time about the actions of their representatives?

Mr. CARAWAY. Absolutely they did not. They never questioned the good faith of their representatives, and never have to this day. The first intimation that there was anything wrong with the representatives comes from the Senator from Michigan.

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

Mr. CARAWAY. I want to make one statement before 5 o'clock, but I yield.

Mr. COPELAND. I only want to say this, that as far as the Senator from Michigan is concerned, and as far as I am concerned, as Senators, we do not think we are bound by any stipulation.

Mr. CARAWAY. Of course; we agree with that. Anybody can repudiate on the floor of the Senate any agreement that anybody made, for either one of the men.

Mr. COUZENS. It is not repudiation. I disagree with the Senator.

Mr. CARAWAY. Yes, it is. "A rose by any other name would smell as sweet." These people entered into an agreement, and everybody abided by it. On the floor of the Senate certain Senators want to disagree with the agreement. If they want to, there is no way to keep them from doing so, and I would not want to.

I want to say one more thing, and then I shall close for the evening. There was a question about what rule should prevail in determining who had the plurality. In the House the rule had been, to a certain extent, to find out what the legal effect of the action of the voter was. Under that rule you could disfranchise every voter in a State if you wanted to, because you could say that there was some irregularity in the manner of holding the election, or of certifying the result, and there was a legal technicality. The Senator from Kansas will bear me out that in the good old days, when either party undertook to increase its majority by a contest, a contestee, if he was not wanted by the majority of the House, could not keep his seat, because his opponent could find some legal technicality to get him out. They contested a man out of a seat who represented my district in Arkansas at one time on the statement of one person and seated a man of a political faith, when not 3 per cent of the voters in the district were of his political belief. They contested people out of seats under that rule by any technicality that they wanted to raise.

The rule which I have always understood to prevail in the Senate is that every man shall have counted for him every vote cast for him, where it is possible to ascertain what the intention of the voter was. If we should adopt any other rule it would make it possible for a majority of the Senate

at any time to find on some legal technicality, and disfranchise the entire population of any State. To say that if there be a mistake made anywhere in the casting of a ballot, they would have a right to reject it on a legal technicality. There is not a Senator on this floor who could keep his seat, if a majority wanted to unseat him, if such a rule were in force, because the majority could find that some people should have voted who did not vote, that they opened polls at an hour when they should not have opened them, or that some instruction was erroneous. But the rule in the Senate has been to accept whatever the voter intended to do, and under that rule every man who votes, if he does anything that indicates what his purpose is, has his vote counted. Under that rule in this contest there were hundreds of votes counted for the contestee, Mr. Brookhart, where the man did hardly anything that was required to entitle him to have his vote counted that way.

They have written in the name "Brookhart" in several different ways. Nowhere was an initial given. There was a "Smith W. Brookhart" on the ballot. They have written in another column "Brookhart" and voted for that Brookhart without initials. In the brief of the contestee he said, "You know there was but one Brookhart." We do not know any such thing, and we were told we must look to the ballot for what the voter intended to do. You could look to the ballot until you dropped in your tracks and you could not tell by looking at such ballots that Smith W. Brookhart was the "Brookhart" voted for in any case.

Mr. FRAZIER. Was it not the intention of the voters to vote for Smith W. Brookhart?

Mr. CARAWAY. Oh, we gave it to him. It would take a legal act, however, to do what you want done in such cases. When you write "Brookhart" in the ballot and do not put any initial you do not do anything legally. But we thought the voter intended to vote for Smith W. Brookhart and we gave him his vote for "Brookhart." The name was spelled in every imaginable way; phonetic spelling seems to be the rule in Iowa, and we gave the vote to Brookhart regardless of how it was spelled. We gave it to him when the law says that a man's name shall appear upon the ballot but once, and yet there are more than 100 votes in which Brookhart's name appears twice upon the ballot. We thought two was a stronger indication of what was intended than one would have been, and so we gave it to Brookhart. Everybody agrees that unless the voter puts a cross in the circle or a cross in the square opposite the name he does not vote at all legally, and yet there are many instances of that kind, and we gave them to Brookhart, where the voter did not put a cross in the circle and did not put a cross in the square before the name "Brookhart," but he did write in the name of Brookhart and spelled it in every imaginable way. Of course, he did not legally vote at all, but we gave it to Brookhart and not a single partisan of Brookhart has complained of that, although the voter did not cast a legal vote at all and everybody knew it.

The law in Iowa provides that the ballot shall be of white opaque paper so when it is folded one can not see through it, and yet there are instances here where the ballot was on pink paper, where it was a sample ballot. But we gave them to Brookhart although the law said that the only legal ballot should be upon white opaque paper, marked "Official ballot." But those ballots were there, written on a ballot with the word "official" and "sample" torn off, and Brookhart was presumed to have been voted for. I know the voter intended to vote for him, but under the legal rule he did not do it.

Mr. FRAZIER. Were all of those irregular colored ballots for Brookhart?

Mr. CARAWAY. No; but the majority of them were.

Mr. FRAZIER. Did you give any of them to Steck?

Mr. CARAWAY. I am mistaken. The colored ballots were all for Brookhart, and Brookhart got every one of them. The Senator could not have done better for Brookhart himself.

Mr. STEPHENS. There were only four of them.

Mr. CARAWAY. And four he got, and nobody has complained of it either, and yet everybody knows they were not legal ballots. But does the number make or change the rule?

Mr. BINGHAM. Does not the Senator think it very strange, in view of the great generosity of the committee in overruling the laws of Iowa and giving these additional ballots to Brookhart, that the result should not have been different?

Mr. CARAWAY. No doubt it is strange to the Senator that anyone should have been generous. Distinguishing marks are prohibited under the law of Iowa. There were such which would have canceled the ballot if we had followed the legal rule, but we did not do it. There were marks on some of the

ballots which I am satisfied any court in Iowa would have said, in construing the technical rule, should have required the ballot to be disregarded; but the committee, following what it thought was the fair rule, the only honest rule, the only safe rule, the only rule that any Senator could afford to support, said, "If we can determine what this voter in Iowa wanted to do, we will carry out his intention and give that vote to whomsoever he desired to have it."

Mr. President, there are some other matters which I wish to discuss, but I have concluded for this evening.

ORDER FOR RECESS

Mr. CURTIS. I ask unanimous consent that when the Senate concludes its business to-day it take a recess until 12 o'clock to-morrow.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

EXECUTIVE SESSION

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 10 minutes spent in executive session the doors were reopened, and the Senate (at 5 o'clock and 15 minutes p. m.), under the order previously entered, took a recess until to-morrow, Tuesday, April 6, 1926, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 5, 1926

UNITED STATES MARSHAL

Edgar C. Snyder to be United States marshal for the District of Columbia.

POSTMASTERS

ALABAMA

Kate B. Quillin, Clayton.
John H. Walls, Guntersville.
Eva B. Carroll, Slocomb.
Alda J. Cox, Spring Hill.

CALIFORNIA

John L. Pope, Lower Lake.
Rose McCann, Portola.
John R. Chace, San Jose.
Roy Bucknell, Upper Lake.

COLORADO

Mary H. Cowie, Boulder.
Byron T. Shelton, Hayden.
William A. Baggett, Kit Carson.

CONNECTICUT

Oliver F. Toop, South Manchester.
William P. Gourlie, Thompsonville.

IDAHO

Joseph Morely, Idaho Falls.
Dott R. Adams, Rathdrum.

IOWA

Frank Popper, jr., Clutier.
Clarissa A. Peck, Lawler.
John A. Ruesink, Lime Spring.
Earl E. Shibley, Lone Tree.
Harold A. Marmon, Mitchellville.
Andrew F. Parker, Redding.
Fred E. Dunton, Riceville.

KANSAS

Laura Kesler, Edna.
Elva M. Woodward, Haviland.
Floyd B. Martin, Lane.
Otto L. Walmer, Lucas.
Henry Washburn, Mulberry.
Minnie C. True, Pittsburg.
William F. Greer, St. Francis.

MAINE

Mae L. Berry, Denmark.
Edward Johnson, Monson.

MICHIGAN

Lewis E. Kephart, Berrien Springs.
James R. Dean, Boyne City.

Herbert E. McElheny, Gobles.
Harvey Tewksbury, Kingston.
Florence J. Truax, Ortonville.
Fred J. Smith, Pickford.
Charles P. Neumann, Rochester.

MISSISSIPPI

Samuel W. Pendarvis, Magnolia.
John W. Woodward, Oxford.
James C. Reddoch, Quitman.

MISSOURI

Vaughan V. Hammitt, Curryville.
Wilbur N. Osborne, Williamsville.

NEBRASKA

Alvin O. Jones, Adams.
Joseph S. Jackson, Inman.
Minnie Johanson, Loup City.
Mary E. Krisl, Milligan.
Clarence Rosecrans, Odell.
Rolland C. Shetler, Riverton.

NEVADA

J. E. Drendel, Minden.

NEW HAMPSHIRE

Benjamin H. Dodge, New Boston.

NEW YORK

Edwin P. Gardner, Canandaigua.
Stella Hackett, Central Park.
William V. Fitzpatrick, Cleveland.
Warren C. King, Dobbs Ferry.
Reuben H. Gulvin, Geneva.
George S. Peterson, La Salle.
George M. Grant, Parksville.
James R. Rodman, Port Ewen.

NORTH CAROLINA

Festus E. Sigman, Thomasville.

NORTH DAKOTA

Martin A. Wahlberg, Oberon.
Viola Tomlinson, Oriska.

OHIO

James K. Fulks, Ada.
John W. Swing, Bethel.
John R. Miller, Franklin.
George W. Burner, Johnstown.
Peter Weishaupt, Lynchburg.
Jasper A. Barrell, Malta.
Marold J. Taylor, Marengo.
Reed Wilson, Pleasant City.
Jesse A. Hayes, Stockport.
Paul E. Muckley, Waynesburg.
George W. Smith, Wheelersburg.

PENNSYLVANIA

Vera Ritchey, Dunlo.
Herbert M. Black, West Sunbury.

SOUTH CAROLINA

Francis B. Gaffney, Gaffney.

TEXAS

Roy K. Duphorne, Aransas Pass.
Walter W. Layman, Bangs.
Wilce V. Garton, Booker.
Jacob Bennett, Bremond.
William H. Tallant, Chico.
McKinley H. Frank, Grapevine.
William L. Allen, Hawkins.
James W. Johnson, Italy.
Ada H. Worley, Malone.
Thomas J. Bailey, Roysce City.
John F. Warrington, Valley Mills.

WEST VIRGINIA

Mary B. Wolfe, Mount Clare.
Helen Cox, Pursglove.
Daniel A. Jackson, Rowlesburg.
Walter Thomas, Triadelphia.

WISCONSIN

Orrin W. Groot, Elmwood.
John H. Zahrtke, Sparta.
Ernest L. Messer, Unity.

HOUSE OF REPRESENTATIVES

Monday, April 5, 1926

The House met at 12 o'clock noon, and was called to order by the Speaker.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

We praise Thee, O God, of whom and through whom and unto whom are all things. Blessed be the Father of all mercies for Him who is now on the right hand of all power. He has brought incorruption out of corruption, glory out of weakness, and set the halo of immortality upon the brow of man. Help us to sow conscientiousness to the light we have, obedience to the truth we know, integrity to the purpose we possess, and our conduct shall grow the fruit of character born in the soil of Thy eternal truth. May there be in us a resurrection to a new life. Roll away from the doors of hearts the stone of malice; roll away from the doors of our minds the stone of intolerance; roll away from the doors of our characters all stones that obstruct the onward march and development of our immortal souls. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of Thursday, April 1, 1926, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had passed bills and resolution of the following titles, in which the concurrence of the House of Representatives was requested:

S. 7. An act to reimburse the Truckee-Carson irrigation district, State of Nevada, for certain expenditures for the operation and maintenance of drains for lands within the Paiute Indian Reservation, Nev.;

S. 47. An act making an appropriation to pay the State of Massachusetts for expenses incurred and paid, at the request of the President, in protecting the harbors and fortifying the coast during the Civil War, in accordance with the findings of the Court of Claims and Senate Report No. 764, Sixty-sixth Congress, third session;

S. 87. An act authorizing and directing the Secretary of the Interior to patent certain lands to school district No. 58, of Clallam County, State of Washington, and for other purposes;

S. 108. An act for the relief of the Commercial Union Assurance Co. (Ltd.), the Automobile Insurance Co. of Hartford, Conn., American & Foreign Insurance Co., Queen Insurance Co. of America, Fireman's Fund Insurance Co., St. Paul Fire and Marine Insurance Co., and the United States Merchants & Shippers Insurance Co.;

S. 161. An act for the relief of Charles H. Willey;

S. 587. An act for the relief of John O'Brien;

S. 674. An act granting certain lands to the city of Kaysville, Utah, to protect the watershed of the water-supply system of said city;

S. 868. An act for the relief of Kate Canniff;

S. 1039. An act to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, and acts amendatory thereof and supplementary thereto;

S. 1208. An act providing reimbursement to J. M. LaCalle for services as instructor at the United States Naval Academy, Annapolis, Md., from October 1, 1914, to October 19, 1914;

S. 1415. An act authorizing and directing the Secretary of the Treasury to immediately reconvey to Charles Murray, sr., and Sarah A. Murray, his wife, of De Funiak Springs, Fla., the title to lots 820, 821, and 822, in the town of De Funiak Springs, Fla., according to the map of Lake De Funiak drawn by W. J. Vankirk;

S. 1647. An act for the relief of the city of Philadelphia;

S. 1648. An act for the relief of Rinald Bros., of Philadelphia, Pa.;

S. 1651. An act for the relief of the widow and minor children of Ed Estes, deceased;

S. 1662. An act for the relief of Francis Nicholson;

S. 1786. An act to equalize the pay of retired officers of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service;

S. 1895. An act to correct the military record of George Patterson, deceased;

S. 1903. An act for the relief of Capt. Murray A. Cobb;

S. 1914. An act directing the resurvey of certain lands;

S. 1993. An act for the relief of the Van Dorn Iron Works Co.;

S. 2042. An act relating to the office of Public Buildings and Public Parks of the National Capital;