PETITIONS, ETC.

The following memorials, petitions, and other papers were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. BLAINE: The petition of many business firms of New York City for the passage of a bill for the relief of Thomas M. Webb, late acting master's mate, United States Navy, to the Committee on Invalid Pensions.

By Mr. BELL: The petition of William P. Early, of Cleveland, Georgia, for a pension, to the Committee on Invalid Pensions.

By Mr. CHIPMAN: The remonstrance of J. C. McKelden and numerous other citizens of Washington, District of Columbia, against the proposed location of the new depot of the Baltimore and Ohio Railroad, on square No. 681 in said city, to the Committee on the District of Columbia.

By Mr. COX: Resolutions of the New York Chamber of Commerce, in regard to the renewal of reciprocal relations by the United States with the Dominion of Canada, to the Committee on Foreign Affairs.

By Mr. CROSSLAND: The petition of Drury Dunaway, of Paducah, Kentucky, for a pension, to the Committee on Invalid Pensions.

By Mr. FREEMAN: The petition of L. P. Gudger, of Georgia, for relief, to the Committee on Claims.

By Mr. HARRIS, of Massachusetts: The petition of George A. Washburn, of Taunton, Massachusetts, for a donation of condemned cannon for the soldiers' cemetery in that city, to the Committee on Military Affairs.

By Mr. LEWIS: The petition of the Chamber of Commerce of Memphis, Tennessee, asking the United States Government to rebuild the levees of the Mississippi River, to the Select Committee on the Mississippi Levees.

Also, the petition of Mrs. Lucie A. Jamieson, of Memphis, Tennessee, for payment of rent for building occupied by the United States troops in Memphis from 1862 to 1866, to the Committee on War Claims.

By Mr. MOORE: The petition of Brown & Beiger and 100 other business firms of the twenty-fourth congressional district of Pennsylvania, for the passage of the bill to aid in the construction of the Continental Freight Railway, to the Committee on Railways and Canals.

By Mr. MORRISON: The petition of Clara H. Fowler, for compensation for stores and supplies taken for use of the United States Army, to the Committee on War Claims.

Also, the petition of the heirs of Charles H. Fowler, of similar import, to the same committee.

By Mr. NIBLACK: The remonstrance of 294 citizens of Evansville, Indiana, and vicinity, against the extension of letters-patent for sewing-machines, to the Committee on Patents.

By Mr. RICE: The petition of Belva A. Lockwood and others, for a restraining order or stay law to prevent the sale of small homesteads for taxes in the District of Columbia, to the Committee on the Judiciary.

By Mr. RICHMOND: The petition of citizens of the twentieth congressional district of Pennsylvania, for the passage of the bill to aid in the construction of the Continental freight railway, to the Committee on Railways and Canals.

By Mr. RUSK: The petition of grange organizations in Trempealeau and Jackson Counties, Wisconsin, of similar import, to the same committee.

Also, papers relating to the claim for a pension of Mrs. General Schimmelfennig, to the Committee on Invalid Pensions.

By Mr. SMART: The petition of Margaret Skelton, of Troy, New York, for a pension, to the Committee on Invalid Pensions.

By Mr. STARKWEATHER: The petition of Mrs. A. Cornelia Lanman, widow of the late Rear-Admiral Joseph Lanman, of the United States Navy, for a pension, to the Committee on Invalid Pensions.

By Mr. THOMAS, of Virginia: Petitions of George S. Ayre, Joseph Baldwin, Andrew J. Baugher, Peter Blosser, Joseph Bowman, John W. Bowman, Joseph Bowman, administrator, Isaac Bowman, Michael Bowman, Mary Brenaman, Samuel Carpenter, Samuel Clin, John W. Conard, Joseph Conard, Ebenezer J. Conard, Philip Derry, Lewis W. Derry, Henry Early, Noah Early, J. B. Eastham, W. D. Ewing, Noah Flory, Samuel Garber, Elizabeth Garber, Eli A. Garber, C. C. Gaver, Samuel Good, Adam Gowl, William C. Harrison, Christian Hartman, Samuel D. Humbert, Thomas Kirkpatrick, John W. Landes, Christian Landes, Morgan Layton, Isaac Long, Samuel E. Long, William D. Maiden, Daniel Miller, Joseph M. Miller, Emma R. Moore, Joseph B. Moyers, Isaac S. Myers, George Neer, John Nisewaner, Jonas Potts, James Ritchie, John Rubush, Abraham Sager, Emanuel Spitzer, Eli Tavenner, Amanda C. Thompson, Samuel H. Wampler, P. W. Whitmer, Martin Whitmore, John Wine, Curtis Yates, Peter Zettee, citizens of Virginia, for compensation for stock driven off in 1864 by order of General Sheridan, to the Committee on War Claims.

Also, papers relating to the claims of Thomas P. Crawford, Samuel A. Miller, Noah A. Royer, Daniel Landis, James Smith, Daniel Miller, to the Committee on War Claims.

By Mr. WARD, of New Jersey: The petition of Robert M. Henning and Albert Pierce, of Essex County, New Jersey, for relief, to the Committee on War Claims.

By Mr. WELLS: The remonstrance of tobacco manufacturers of Saint Louis, Missouri, against any amendment of the internal-revenue laws to enable growers of leaf-tobacco to sell $100 worth of their crop to consumers without license or tax, to the Committee on Ways and Means.

By Mr. WHEELER: A communication from H. W. Loud & Co., of New York City, inclosing petition from Maine sea-captains, praying the abolition of compulsory pilotage through Hell Gate, to the Committee on Commerce.

By Mr. WOODFORD: The petition of John R. Harrington, for extension of letters-patent for improvements in carpet-lining, to the Committee on Patents.

Also, papers relating to the claim of Lieutenant David E. Carpenter, for a pension, to the Committee on Invalid Pensions.

IN SENATE.

TUESDAY, *June* 9, 1874.

The Senate met at twelve o'clock m.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Chief Clerk proceeded to read the Journal of yesterday's proceedings.

Mr. WEST. Unless some Senator desires to hear the Journal read, as time is now very valuable, I move that the reading be dispensed with.

Mr. MORRILL, of Vermont. At the request of a Senator now absent, I desire to have the Journal read.

The PRESIDENT *pro tempore*. The reading will proceed.

The Chief Clerk continued the reading of the Journal for some time.

Mr. ALCORN. I move to dispense with the further reading of the Journal.

There being no objection, (at twelve o'clock and thirteen minutes p. m.,) the further reading was dispensed with.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had concurred in the reports of the committees of conference on the disagreeing votes of the two Houses on the following bills:

A bill (H. R. No. 735) to increase the pensions of soldiers and sailors who have been totally disabled; and

A bill (H. R. No. 2453) to amend an act entitled "An act to revise, consolidate, and amend the laws relating to pensions;" approved March 3, 1873.

The message also announced that the House had passed a bill (H. R. No. 435) to enable the people of Colorado to form a constitution and State government, and for the admission of the said State into the Union on an equal footing with the original States; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore:*

A bill (H. R. No. 2019) to forfeit certain public lands granted to the Stockton and Copperopolis Railroad, in the State of California;

A bill (H. R. No. 3005) for the relief of the heirs of Mary B. Belfield, of Virginia;

A bill (H. R. No. 3575) for the relief of certain settlers on the public lands in certain portions of the States of Minnesota and Iowa;

A bill (H. R. No. 2866) relieving the legal and political disabilities of Fitzhugh Lee;

A bill (S. No. 395) for the relief of Edward H. Calvert;

A bill (S. No. 419) for the relief of Sebastian Reichert;

A bill (S. No. 465) for the relief of Joseph Council, of Mobile, Alabama;

A bill (S. No. 860) granting one condemned cannon to Prescott Post No. 1, Grand Army of the Republic, for the erection of a monument at Providence, Rhode Island; and

A bill (S. No. 384) for the benefit of the Louisville and Bardstown Turnpike Company.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair has received a printed memorial with printed signatures of Harper & Brothers, George Jones, D. Appleton & Co., and many others, leading publishing houses of the United States, in regard to the postage on newspapers; but the memorial, signatures, and all being printed, the Chair regards it as not within the rule and does not present it.

Mr. GOLDTHWAITE presented a petition of citizens of Alabama, praying that the tax levied and collected on cotton for the years 1866, 1867, and 1868 be refunded; which was referred to the Committee on Finance.

Mr. MCCREERY presented a memorial of manufacturers of chewing-tobacco in the city of Louisville, Kentucky, protesting against the amendment to the tax bill passed by the House of Representatives allowing a drawback on all chewing-tobacco exported in which licorice paste is a component part to the extent of the import duty charged on licorice paste; which was referred to the Committee on Finance.

Mr. CONKLING presented the petition of Paul Frank, late colonel of the Fifty-second New York Volunteers, praying to be allowed an increase of pension; which was referred to the Committee on Pensions.

He also presented a memorial of E. D. Morgan & Co., Brown Brothers & Co., Morton, Bliss & Co., and twenty-four other banking houses of New York City, remonstrating against the imposition of a tax on sales of coin and securities; which was referred to the Committee on Finance.

He also presented a memorial of banks and savings institutions of the city of Brooklyn, the memorial of F. Schuchardt & Sons, Lanman & Kemp, and other bankers and shippers of New York City, and a memorial of bankers, importers, and merchants of New York City, remonstrating against the imposition of a tax on sales of coin and securities; which were referred to the Committee on Finance.

He also presented the memorial of Harper & Brothers and other publishing firms of New York and other cities in favor of the establishment of a fixed rate per pound on all newspapers and other periodicals and prepayment of postage; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. GORDON presented the memorial of Roderick Rutland, a citizen of Monroe County, Georgia, asking the cancellation of land warrant No. 97187 and the reissue to him of the same or a duplicate thereof, the original being alleged to have been stolen from him; which was referred to the Committee on Public Lands.

He also presented a petition of citizens of Georgia, praying for the erection of a light-house at the mouth of Jekyl Creek in that State; which was referred to the Committee on Commerce.

He also presented the petition of D. Scott Edings, of Charleston, South Carolina, praying to be reinstated in the possession of two plantations near Paris Island, in the county of Charleston, South Carolina, sold under the act of July 8, 1872, providing for the collection of direct taxes upon real property situated in the insurrectionary States; which was referred to the Committee on Claims.

Mr. CONOVER, presented a resolution of the city council of the city of Fernandina, Florida, praying an appropriation of money for the improvement of the harbor at that place; which was referred to the Committee on Commerce.

Mr. OGLESBY presented papers in relation to the claim of Elizabeth Loebrick, for services as a hospital nurse rendered during the late war; which were referred to the Committee on Claims.

Mr. NORWOOD presented the petition of Robert H. Anderson, of Savannah, Georgia, praying the removal of his political disabilities; which was referred to the Committee on the Judiciary.

TREATY WITH BELGIUM.

Mr. CAMERON. I am directed by the Committee on Foreign Relations, to whom was referred the joint resolution (H. R. No. 107) providing for the termination of the treaty between the United States and His Majesty the King of the Belgians, concluded at Washington, July 17, 1858, to report it back without amendment, and I ask for its immediate consideration.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. Its preamble recites that it is provided by the seventeenth article of the treaty between the United States of America on the one part, and His Majesty the King of the Belgians on the other part, concluded at Washington on the 17th of July, 1858, that "the present treaty shall be in force during ten years from the date of the exchange of the ratifications, and until the expiration of twelve months after either of the high contracting parties shall have announced to the other its intention to terminate the operation thereof, each party reserving to itself the right of making such declaration to the other at the end of the ten years above mentioned; and it is agreed that, after the expiration of the twelve months' prolongation accorded on both sides, this treaty and all its stipulations shall cease to be in force;" and that it is no longer for the interest of the United States to continue the treaty in force. The resolution therefore provides that notice be given of the termination of the treaty according to the provisions of the seventeenth article thereof for such termination; and the President of the United States is authorized to communicate such notice to the government of the kingdom of Belgium.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

REPORTS OF COMMITTEES.

Mr. EDMUNDS. I am directed by the Committee on the Judiciary to whom was referred the bill (H. R. No. 2770) to amend the act entitled "An act to amend an act entitled 'An act to establish a court for the investigation of claims against the United States,'" approved August 6, 1856, to report the same back favorably. I will state that there was a Senate bill upon the same subject which provided that a majority of the whole number of judges of the Court of Claims should constitute a quorum, while the House bill provides that three judges shall constitute a quorum. With the present number of judges, the two bills of course accomplish precisely the same result, inasmuch as five judges now compose the Court of Claims. If in the future, as in the past, the number of judges should be increased, then the House bill would be wrong again. As the present law is, it allows two out of five to be a quorum. Inasmuch as it is late in the session, the committee have thought it best on the whole to report the House bill so as to save any further trouble about it.

I am therefore instructed by the same committee, to whom was referred the bill (S. No. 751) to constitute a quorum and to regulate the proceedings of the Court of Claims, to report the same adversely. The committee think as I said that the Senate bill is the better; but to save time at present we let it go the other way, and let this be indefinitely postponed.

The Senate bill No. 751 was indefinitely postponed.

Mr. EDMUNDS. I am instructed by the same committee, to whom was referred the bill (H. R. No. 3256) to repeal so much of the act approved May 8, 1872, entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1873, and for other purposes," as provides for the employment of persons to assist the proper officers of the Government in discovering and collecting moneys withheld, and for other purposes, to report the same back and ask to be discharged from its consideration, and that it be referred to the Committee on Finance.

The Committee on the Judiciary are unable to perceive that that part of the bill respecting repealing the Sanborn contract business is a subject with which we have anything to do; and the other branch of the bill providing punishments to Senators, Representatives, and Delegates for acting as agents &c., is the law already, as it respects all proceedings except those in the regular judicial courts of the United States. The Committee are of opinion that there is no need to have any fresh enactment on the subject of Senators and Representatives in Congress being connected with claims against the Government. That is prohibited already. In respect to counsel being employed in a regular court of the United States, as the custom has been, the committee do not think it necessary at this time to recommend any legislation, so that so far as we are concerned the only subject is that of the repeal of the Sanborn contract law, so called, with which our committee has nothing to do. We therefore ask to be discharged from the further consideration of the bill, and I was directed to move that it be referred to the Committee on Finance. I believe, however, that the bill which contains this provision came from the Committee on Appropriations originally; but in obedience to the direction of the Committee on the Judiciary, I move that the bill be referred to the Committee on Finance.

The motion was agreed to.

Mr. EDMUNDS, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 3098) to amend the act entitled "An act to reorganize the courts in the District of Columbia, and for other purposes," approved March 3, 1863, reported it without amendment.

Mr. EDMUNDS. I am directed by the same committee, to whom was referred the bill (H. R. No. 1594) for the punishment of extortion by officers or persons acting under the authority of the United States, to report the same adversely. The law already is ample for the punishment of all officers of the United States for extortion. The House bill takes one step further, and provides for punishing any person who acts under the authority of the United States for extortion. Inasmuch as nobody but an officer acting under the authority of the United States can be guilty of extortion except those persons who may be embraced in the bill I have just referred to who were authorized to take the place of officers in enforcing the law, and as the committee infer that that law will not stand long, we think it unnecessary to legislate upon the subject, and we therefore recommend that the bill be indefinitely postponed.

The report was agreed to.

Mr. EDMUNDS. I am directed by the same committee, to whom was referred the bill (S. No. 752) to compel the performance of certain duties by clerks of courts and other officers of the United States, to report the same favorably with sundry amendments.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

Mr. EDMUNDS. I am directed by the same committee, to whom was referred the bill (H. R. No. 3516) to make valid asssignments of wages or salaries of officers, agents, or employés of the Government, to report the same adversely. The committee are of the opinion, I believe unanimously, that such a bill is against the whole policy of the law for the protection of persons employed by the Government and against all principles of law in providing for assignments of wages not yet earned; and while it may have some advantages in particular respects, on the whole would be found to work extremely disastrously both to the interests of the United States and of the great number of persons whom it is obliged to employ. We are therefore of opinion that it ought to be indefinitely postponed.

The bill was indefinitely postponed.

Mr. EDMUNDS. I am directed by the same committee, to whom was referred the bill (S. No. 16) supplemental to the act entitled "An act to promote the development of the mining resources of the United States," approved May 10, 1872, with the amendment of the House of Representatives thereto, to report the same with the recommendation that the bill and amendment be indefinitely postponed, with a written report. This being what is called the Sutro-Tunnel and Mining Company bill, I suppose the parties on both sides wish to have it go on the Calendar.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) It will be placed on the Calendar. Does the Senator wish to have the report printed?

Mr. EDMUNDS. Yes, sir.

The report was ordered to be printed.

Mr. CAMERON. The Committee on Foreign Relations, to whom was referred the bill (H. R. No. 1589) for the relief of Henry Savage, acting chargé d'affaires of the United States in Guatemala, from May 7, 1856, to November 14, 1858, have directed me to report it back adversely, and I move that it be indefinitely postponed.

The motion was agreed to.

Mr. CAMERON. I am also directed by the Committee on Foreign Relations, to whom was referred the bill (H. R. No. 3351) to ascertain the possessory rights of the Hudson's Bay Company and other British subjects within the limits which were subject of the award of His Majesty the Emperor of Germany under the treaty of Washington of May 8, 1871, and for other purposes, to report it back favorably and without amendment. An early passage of this bill is necessary for the purpose of ascertaining the rights of people up there under the late treaty with England, and I ask for its immediate consideration.

Mr. EDMUNDS. I have reported half a dozen bills from the Judiciary Committee this morning to which there can be no objection; but which in justice to bills reported yesterday and before and on the Calendar, I thought ought to take their place there; and I think so as to this and every other bill in respect to which there is not some very urgent public necessity. I therefore ask that it go on the Cal endar.

Mr. CAMERON. Cannot I convince the Senator from Vermont?

The PRESIDING OFFICER. The bill goes on the Calendar.

Mr. FERRY, of Michigan, from the Committee on Finance, to whom was referred the bill (H. R. No. 3266) for the relief of the Pekin Alcohol Manufacturing Company, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. ALLISON. I wish to report a bill this morning from the Joint Committee of Investigation into the Affairs of the District of Columbia.

The bill (S. No. 913) for the government of the District of Columbia, and for other purposes, was read, and passed to a second reading.

Mr. ALLISON. I also report the testimony taken by the joint committee and ask for a formal order for the printing of it. I would state, however, that the whole of the testimony is printed, the usual number of copies having been printed at the request of the committee.

The PRESIDENT *pro tempore*. The order for printing the usual number will be made.

Mr. EDMUNDS. If the usual number is already printed, that ought not to be done. We do not want a duplicate print.

Mr. ALLISON. The testimony has been printed, but there has been no formal order of the Senate authorizing it.

Mr. EDMUNDS. Then you will see to it of course that it is not duplicated.

Mr. ALLISON. Certainly.

Mr. EDMUNDS. All right.

Mr. ALLISON. I will state that the committee would be glad to have the bill that I have reported considered at as early a time as is practicable. We expect to make some further report upon the testimony and the bill within a very few days, and then I shall ask that the Senate take the bill up and put it on its passage.

Mr. SCOTT. I am directed by the Committee on Finance to ask to be discharged from the further consideration of the resolution referred to them directing them to inquire whether the fifth, sixth, and seventh sections of the act approved July 12, 1870, regulating the disposition of balances of unexpended appropriations, have been duly observed and executed, and whether any further provisions of law are required to secure the covering into the Treasury of balances of unexpended appropriations. The inquiries made by the committee satisfied them that whenever this law had not been complied with, or at least in the majority of cases, the non-compliance arose from the construction placed on the law by the Departments, in which, however, the committee did not agree; but as the evil complained of has been remedied by bills passed at this session, the committee now ask to be discharged from the further consideration of the resolution.

The report was agreed to.

Mr. SCOTT. I am instructed by the same committee, to whom was referred the bill (H. R. No. 2211) for the relief of Beck & Wirth, to report the same back without amendment.

Mr. LOGAN. I ask that the Senate take action on that bill now.

Mr. EDMUNDS. I must insist that it go on the Calendar unless there be some special reason.

Mr. LOGAN. The bill has been before the House and Senate for a long time, and it is a matter of very great importance to the parties.

Mr. EDMUNDS. The Senator can take it up to-morrow.

Mr. LOGAN. To-morrow is for the Military Committee. This is from the Finance Committee.

Mr. EDMUNDS. It is impossible for us to reach the bills upon the Calendar that are reported in the same way, bills to which there is no objection, unless we take the morning to report bills and then go to the Calendar. As I have objected to others I must to this one.

Mr. LOGAN. The Senator did not object when a bill was called up a moment ago and passed.

Mr. EDMUNDS. I did not know it then.

The PRESIDENT *pro tempore*. The Chair understands the Senator from Vermont to object.

Mr. EDMUNDS. Yes, sir.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

Mr. SCOTT. A few days since an order was made authorizing a claimant to withdraw from the files the papers after his case had been recommitted to the Committee on Claims. I ask that the committee be discharged from the further consideration of the case of James B. Gillespie and that he have leave to withdraw his papers, leaving copies.

It was so ordered.

Mr. BUCKINGHAM, from the Committee on Commerce, to whom was referred the bill (H. R. No. 1564) establishing life-saving stations, and appropriating therefor, reported it without amendment.

Mr. LEWIS, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 2179) to incorporate the Inland and Sea-board Coasting Company of the District of Columbia, reported it without amendment.

Mr. McCREARY, from the Committee on Foreign Relations, to whom was referred the bill (S. No. 255) to authorize the President of the United States to request the republic of Hayti to indemnify Antonio Pelletier, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. CLAYTON, from the Committee on Territories, to whom was referred the bill (H. R. No. 921) to prevent the useless slaughter of buffaloes within the Territories of the United States, reported it without amendment.

He also, from the same committee, to whom was referred a petition of citizens of the United States, praying for the repeal of all laws exempting church property from taxation in the Territories and District of Columbia, asked to be discharged from its further consideration; which was agreed to.

Mr. CLAYTON, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 3428) to amend an act entitled "An act to provide for the payment of horses and other property lost or destroyed in the military service of the United States," approved March 3, 1849, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 3431) authorizing the Secretary of War to relinquish and turn over to the Interior Department parts of certain reservations in the Territory of Arizona, no longer required for military purposes, reported it with an amendment.

Mr. LOGAN, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 2939) to compensate D. R. Haggard for six months' services as colonel of the Fifth Kentucky United States Cavalry Volunteers, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 854) extending the right of way heretofore granted to the Alleghany Valley Railroad Company through the arsenal grounds at Pittsburgh, Pennsylvania, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 3335) authorizing the Secretary of War to grant a right of way across a corner of the Fort Gratiot military reservation to the City Railroad Company, Port Huron, Michigan, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 3503) in regard to crimes committed by persons in the military and naval service of the United States, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 2892) for the relief of Thomas Simms, late a lieutenant in the Seventy-sixth Regiment New York Volunteers, reported it without amendment.

Mr. WRIGHT. The Committee on Finance, to whom was recommitted the bill (S. No. 653) to relieve E. Boyd Pendleton, late collector of internal revenue of the fifth district of Virginia, have had the same under consideration, and have instructed me to report it back and recommend its indefinite postponement. There is an additional report in writing.

The report was ordered to be printed, and the bill was indefinitely postponed.

Mr. FRELINGHUYSEN. The Committee on the Judiciary, to whom was referred the bill (H. R. No. 3332) to fix the time for the election of Representatives in the Forty-fourth Congress from the State of Mississippi, have had the same under consideration, and have directed me to report it back without amendment and recommend its passage.

Mr. ALCORN. That bill is one which is intended to harmonize the elections in the State of Mississippi, and it is important to that State. There will be no objection to it I am sure, and I trust it will be considered at once. It contains nothing that concerns any one or anything except the harmony of the elections in Mississippi.

Mr. EDMUNDS. I object.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

Mr. HITCHCOCK, from the Committee on Territories, to whom was referred the bill (H. R. No. 2418) to enable the people of New Mexico to form a constitution and State government, and for the admission of the said State into the Union on an equal footing with the original States, reported it without amendment.

Mr. NORWOOD, from the Committee on Pensions, to whom was referred the bill (S. No. 592) granting a pension to John R. Gaines,

reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of Daniel M. Miller, of Wirt County, West Virginia, praying for a pension, reported adversely thereon, and asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 2218) granting a pension to Sarah Summerville, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 1054) granting a pension to Jefferson W. Davis, first lieutenant of Company F, Sixty-fourth Regiment New York Volunteers, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 700) granting a pension to the minor children of Michael Weisse, deceased, reported it without amendment.

He also, from the same committee, to whom was referred the petition of John Caleb, praying to be allowed a pension, reported adversely thereon, and asked to be discharged from its further consideration; which was agreed to.

Mr. BOREMAN, from the Committee on Claims, to whom was referred the bill (S. No. 295) for the relief of the trustees of the Methodist Episcopal church at New Creek, West Virginia, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the bill (H. R. No. 2398) granting a medal to John Horn, jr., for his heroic exploits in rescuing men, women, and children from drowning in Detroit River, reported it without amendment.

Mr. HAMLIN, from the Committee on Foreign Relations, to whom were referred sundry petitions, praying Congress to provide for the settlement of international difficulties by arbitration, submitted a report thereon, accompanied by the following resolution:

Resolved, That the United States having at heart the cause of peace everywhere, and hoping to help its permanent establishment between nations, hereby recommend the adoption of arbitration as a great and practical method for the determination of international differences, to be maintained sincerely and in good faith, so that war may cease to be regarded as a proper form of trial between nations.

BILL RECOMMITTED.

On motion of Mr. GOLDTHWAITE, it was

Ordered, That House bill No. 2246, relating to circuit courts of the United States for the district of Alabama, be recommitted to the Committee on the Judiciary.

BILLS INTRODUCED.

Mr. LOGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 914) to establish a commercial railway; which was read twice by its title.

Mr. LOGAN. I present this bill by request. I have not read it, and do not know what it contains. I move that it be referred to the Select Committee on Transportation Routes to the Sea-board, and be printed.

The motion was agreed to.

Mr. CLAYTON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 915) to establish certain post routes; which was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

Mr. BUCKINGHAM asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 916) for the relief of Mrs. Ann Cornelia Lanman; which was was read twice by its title, and referred to the Committee on Pensions.

Mr. NORWOOD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 917) for the relief of Robert H. Anderson, of Chatham County, State of Georgia; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. STEVENSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 918) for the benefit of Mrs. Fanny S. Conway; which was read twice by its title, and referred to the Committee on Naval Affairs.

REVISED STATUTES.

Mr. ANTHONY. The whole subject of the distribution of the laws was on my motion referred to the Committee on the Judiciary, and yesterday I ought not to have allowed the bill that was passed for the printing of the revised statutes to go without being referred to that committee. I therefore move to reconsider the vote by which the bill was passed, with a view of referring it to the Committee on the Judiciary. The bill has gone to the House, and I offer the following order to bring it back:

Ordered, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (H. R. No. 3652) providing for publication of the revised statutes of the United States.

The order was agreed to.

THE POST-ROUTE BILL.

Mr. RAMSEY. I desire to say that I find on the desks of Senators this morning the post-route bill. Under the new rule of the Senate, amendments to that bill are required to be submittted to the Committee on Post-Offices and Post-Roads so that the bill may be perfected. I hope Senators will observe the rule and send in the amendments, if the bill as it is at present does not satisfy them.

MAIL SERVICE WITH CHINA.

Mr. SCOTT submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire whether or not the steamships in the ocean mail steamship service between the United States and China under the acts of February 17, 1865, and of June 1, 1872, have been subjected to inspection and surveyed by a United States naval constructor, and so constructed as to be readily adjusted to the armed naval service of the United States in case of war; the utility of the vessels for such service; and whether any further legislation is necessary to secure to the United States the right to take said steamships for the use of the Government in case of war, as provided by said acts.

FINAL ADJOURNMENT.

Mr. ANTHONY. The resolution of final adjournment does not specify the hour at which the Presiding Officers of the two Houses shall adjourn them. Although I do not suppose that is necessary, it would be rather awkward that one House should be sitting, though it could not transact any legislative business, when the other had adjourned. I offer this resolution as supplementary to the existing resolution:

Resolved by the Senate, (the House of Representatives concurring,) That the President of the Senate and Speaker of the House adjourn their respective Houses on Monday, the 22d day of June instant, at one o'clock p. m.

Mr. CONKLING. I am for this resolution if it is the best way to accomplish the purpose. I ask the Senator from Rhode Island, however, whether there is not some danger in this? We adopted a resolution which did fix an hour. That resolution still lies on the table of the House, as this will when we send it, and it was just like this except that I think the hour named there was twelve and this is one o'clock. Is the House any more likely to act on this resolution than on the other?

Again, having already fixed the day so that at the end of that parliamentary day, whatever the hour may be, the final adjournment takes place, if the Senate passes another resolution may we not unsettle the understanding so far as it exists now? I make this inquiry not in the nature of an objection, but only for the purpose of asking the Senator whether he is rendering more certain than it is now the termination of the session. If he is, I am for the resolution.

Mr. ANTHONY. I suppose the termination of the session is rendered certain at the end of the parliamentary day of Monday, June 22, which I suppose will be Tuesday at twelve o'clock. If this resolution does not meet with the assent of the House, the matter remains just as it is now.

Mr. FRELINGHUYSEN. Suppose the House amend this resolution?

Mr. ANTHONY. If we should not concur in the amendment the matter would remain as it is. This does not affect the original resolution.

Mr. EDMUNDS. I merely wish to say in this connection, inasmuch as I moved the concurrence of the Senate in the House resolution, which did not fix the precise hour of that day, that I understood the history of it to be this: The House had no objection to agreeing to the day named by the Senate, but the Senate resolution was in such a condition (if I may so far refer to the proceedings in the House) that it could not be reached in the regular course for a long time. The House of Representatives therefore thought it better to send us a resolution of its own, and sent it in the form we agreed to; that is, naming the day, but instead of fixing the hour, provided that when the two Houses adjourned on that day, it should be final. The object of that, as I had reason to suppose, was, that inasmuch as there was some doubt whether the appropriation bills, as some people thought, could be finished, it might be necessary to prolong the session of that day beyond the usual hour of adjournment of the two Houses toward the next day so far as might be necessary, and that provided a little elasticity in the thing, so that if anything necessary to be done should not be quite accomplished, there would be a leeway of a few hours in which it could be accomplished.

It struck me in the then condition of affairs that that was an entirely appropriate thing to do. Of course, as soon as either House on that day chooses to adjourn it ends the session, because the other House then cannot do any legislative business that will amount to anything. I was quite willing for one to put myself and the Senate in the power of the House of Representatives to adjourn us on that day at the very moment of meeting if it thought best; and I was sure the Senate would be willing to take the responsibility of being able to determine for itself also how early on that day we should terminate our legislative business. I do not think it at all important, therefore, that we should pass this resolution; but if it had been an original proposition, as the original Senate resolution was, I should have named the hour.

Mr. ANTHONY. Let the resolution lie over.

The PRESIDENT *pro tempore*. The resolution will be laid aside.

LIEUTENANT JOSEPH WHEATON.

Mr. JOHNSTON. I move that the Senate proceed to the consideration of Senate bill No. 418.

The motion was agreed to; and the bill (S. No. 418) for the relief of the administratrix of the estate of Lieutenant Joseph Wheaton, deceased, was read the second time, and considered as in Committee of the Whole. It directs the Third Auditor of the Treasury to settle and adjust the claim of Susan Dayton Anderson, administratrix *de bonis non* of the estate of Lieutenant Joseph Wheaton, deceased, for the half-pay due him under the act of Congress of October 21, 1780, as a lieutenant of infantry in the Rhode Island Line during the revolutionary war; and in the settlement and adjustment of the claim the principles recognized and embraced in the decision of the Court of Claims of the United States in the case of Thomas H. Baird, admin-

istrator of Dr. Absolom Baird, deceased, and which was sanctioned by an act of Congress approved August 18, 1856, are to be accepted by the Third Auditor as the basis on which such settlement and adjustment shall be made; but upon the final settlement and adjustment of the claim there is to be deducted from the amount ascertained to be due all moneys paid, by commutation or otherwise, on account of half-pay.

Mr. EDMUNDS. What committee reported that bill?

The PRESIDENT *pro tempore*. The Committee on Revolutionary Claims.

Mr. EDMUNDS. I should like to hear the report read. I have heard of that case before.

Mr. JOHNSTON. Before the report is read I will ask leave to amend the bill.

Mr. EDMUNDS. I think the report had better be read first. The bill will probably require a good many amendments.

Mr. JOHNSTON. Very well.

The Chief Clerk read the following report, submitted by Mr. JOHNSTON on the 3d of February last:

The Committee on Revolutionary Claims, to whom was referred the memorial of Susan Dayton Anderson, administratrix *de bonis non* of Lieutenant Joseph Wheaton, deceased, report:

That at the second session of the Forty-second Congress a report was made in this case, which, as it embodies all the facts, is now adopted by the committee, and is as follows:

"The Committee on Revolutionary Claims, to whom was referred the memorial of the administratrix of the estate of the late lieutenant Joseph Wheaton, and the letter of the Secretary of the Interior of the 27th of March, 1872, relative to the same, report:

"That the evidence before the committee shows that Lieutenant Joseph Wheaton served in the Rhode Island Line from the commencement to the close of the revolutionary war; that his father and ten brothers all held commissions as officers in the British service, and that he alone sacrificed his home and domestic ties for the cause of liberty; that he was disinherited by his father, Colonel Caleb Wheaton, who commanded a regiment of British pioneers, who, to the day of his death, never forgave his son for what he considered a disloyalty to the King of Great Britain in joining 'the Yankee rebels;' that on the 11th day of May, 1775, and long before war was declared, he joined a band of volunteers, and took an active part in capturing the Margaretta and two other armed British schooners, which was of great service to us in after times, and was the first advantage gained over our enemies on the waters. In this service he received a severe saber wound on the head, which troubled his mind through life, and terminated in his dying in the insane asylum, in Baltimore, in the year 1828.

"After the war was declared, Joseph Wheaton joined the Rhode Island Line in Colonel Israel Angell's regiment, and sharing in all the battles in which that part of the Army was engaged, which seems to have been many, never left his regiment until the end of the war. He was invested with a commission as colonel in the war of 1812, through the whole of which he served with distinguished ability.

"By the acts of Congress of 3d and 21st of October, 1780, the Government of the United States promised to pay to each and all of the officers, individually, who should continue to serve until the end of the war half-pay for life, and to pay the same to said officers, or their legal representatives, in specie or other current money, at the end of each and every year for life. This was a distinct offer and covenant, stipulated by the most solemn act of the Government in 1780 after four years and upward of hard service in field and camp by Joseph Wheaton, among others, and was offered as an inducement to cause him to continue in the service until defeat or victory should mark the close of the contest. If defeated, he with his compeers had nothing to hope for but the rebel's fate; if victorious, he would have the stipulated compensation of the promised half-pay to buy him bread for the balance of his days. He accepted the offer, fulfilled the contract, and served to the end of the war, thus establishing his unqualified right to said half-pay.

"It was decided by the Court of Claims in the case of Thomas H. Baird, administrator of Dr. Absalom Baird, deceased, that the acts of Congress of 3d and 21st of October, 1780, created a legal liability against the United States in favor of the officers therein referred to, which no subsequent legislation by Congress could release without the assent of the other party. Your committee find that this decision of the Court of Claims was sanctioned by Congress by an act approved August 18, 1856.

"The Committee on Revolutionary Claims in the Thirty-sixth Congress made a favorable report in this case, and in the Thirty-seventh Congress the claim was referred by resolution of the House to the Secretary of the Interior for adjustment. In reply, the Secretary of the Interior submits the following letter:

DEPARTMENT OF THE INTERIOR,
Washington, March 27, 1862.

SIR: I have the honor to acknowledge the receipt of a resolution of the House of Representatives, adopted on the 14th instant, referring to this Department for adjustment the claim of Mary A. Berault, administratrix of the late Joseph Wheaton.

Upon an examination of the papers referred to me, I am fully satisfied of the justice of this claim, and concur in the report of the Committee on Revolutionary Claims in its favor. The services of Lieutenant Wheaton were of a highly meritorious character, and continued from a time anterior to the passage of the act of Congress of October, 1780, promising half-pay for life to those who should serve until the end of the war, until the final and successful termination of the revolutionary struggle.

The principle upon which the claim is based has been recognized and sustained by the Court of Claims, in the case of Dr. Baird, and the decision of that court has received the sanction of Congress.

I should not hesitate to adjust and allow the claim, as recommended by the resolution of the House of Representatives, if any fund were placed at my disposal from which it could be paid; but no appropriation has been made which is applicable to the payment of claims of this character.

I therefore return the papers, with a recommendation that an appropriation be made by Congress for its payment.

I am, sir, with great respect, your obedient servant,

CALEB B. SMITH,
Secretary of the Interior.

Hon. GALUSHA A. GROW,
Speaker of the House of Representatives.

"At the last session of the Forty-first Congress the claim was passed by the House by a two-thirds vote, and this committee unanimously reported in favor of its passage by the Senate, but owing to the lateness of the session no action was taken upon it by the Senate.

"Your committee are of opinion, from a careful examination of the case, that this claim is embraced within the acts of the 3d and 21st of October, 1780. The half-pay should terminate on the 24th day of March, 1818, when Lieutenant Wheaton was placed on the pension-roll, and there should be deducted from the said half-pay any payments made by the Government to said Wheaton on account of his said services.

"Your committee report the accompanying bill, and recommend its passage."

Mr. JOHNSTON. I move to amend the bill by striking out in section 1, line 5, the words "administratrix *de bonis non* of the estate" and inserting the words "only child."

Mr. EDMUNDS. I should like to ask the Senator in charge of this bill what is the purpose of that amendment. If this money is due to anybody it is due to the legal representatives of Lieutenant Wheaton, and the only discharge that we can get from this contract, as it is reported to be a contract, must be from the administrator of that estate. Who are the heirs of this estate it will be quite impossible for Congress after a period of ninety years to ascertain very easily; and if, as the committee report, this is a claim of legal obligation that Congress cannot set aside, and for that a decision of the Court of Claims is cited—I say nothing about the goodness of the law—but I say if that is so, then the only safety of the United States is to pay the money to an administrator, and let the administrator hunt up the persons to whom by the laws of descent it should legally go. For the United States to undertake to say it shall be paid to the only child, is undertaking to say what the law, if it is a contract, does not allow us to say. If we are bound to pay, as the report states we are, then we are bound to pay the estate of the officer as a matter of obligation, and any creditor of that officer at the time of his death is entitled first under the laws of all civilized communities to be paid out of it, and after that the administrator, according to the laws of the State where this gentleman died, would distribute the remainder under the direction of those laws. I hope therefore the Senator will explain to us upon what principle it is, consistent with this bill, he proposes, that we shall not pay the legal representatives of this deceased officer, but shall pay his only child, it being, as the report states, a matter of absolute and binding legal obligation, a debt that the United States owed to this man in his life-time.

Mr. JOHNSTON. I suppose, as Lieutenant Wheaton has been dead since 1828, any debts against his estate would be barred by the statute of limitations.

Mr. EDMUNDS. Why is not this barred by the statute of limitations?

Mr. JOHNSTON. This is a debt due from the United States.

Mr. EDMUNDS. Is not that barred by the statute the same as private debts?

Mr. JOHNSTON. I think the United States would hardly plead the statute of limitations against a soldier who served it so faithfully.

Mr. EDMUNDS. If the United States has done a wrong to this soldier by withholding money due him, so that it ought not to plead the statute of limitations, then the creditors of this soldier had nothing they could get hold of in respect to this fund, as they could not sue the United States. If therefore we are to do justice, being under this legal obligation and the statute of limitations has nothing to do with it on our part, then most certainly in order to guard ourselves against claims by the creditors of this person or other people as heirs we ought to provide distinctly, as the bill originally did, that the money should be paid to an administrator or administratrix. That being done, if we are under a legal obligation, as the report says we are, our duty is discharged, and we shall not at the next session or some other, as has sometimes been the case—not about this sort of claims perhaps—be called upon——

Mr. JOHNSTON. I will withdraw the amendment and let the bill go as it is.

Mr. EDMUNDS. I do not want to withdraw my speech or allow the amendment to be withdrawn until I finish the sentence that I was engaged in; but as the Senator has put into the middle of my sentence what I was in hopes of accomplishing, I will forgive him.

Mr. JOHNSTON. You want to save time, and so do I.

Mr. EDMUNDS. No; I want to do right, whether time is saved or not.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. EDMUNDS. This is much more serious than Senators imagine when looking at it as a little bill for a private claim. I suppose the claim itself, with interest, &c.—because I see there is no limitation about paying interest or any other thing—will amount perhaps to ten or fifteen thousand dollars. The Senator perhaps can inform me how much the claim will amount to.

Mr. JOHNSTON. I have never made any calculation.

Mr. EDMUNDS. In some claims of a similar character that have been presented to Congress within my recollection, but which did not get through, it was found on looking at the frame of the bills and computing the interest on the claim as a debt which the United States were bound to pay, putting it on that theory, that each individual claim would run up to something very prodigious. I cannot say how much this would amount to; but you can imagine that it would be very large if you calculate annual interest on a sum of money for ninety years, even if it was a very small one originally. Suppose the half-pay of an officer in an eight years' war amounted to only $500 a year, what would it come to? Suppose his pay was only $1,000—take it at that to illustrate—he was entitled to half-pay from the end of the war, from 1783 to the year 1828, when he died.

Mr. JOHNSTON. To 1818, when he commenced drawing a pension.

Mr. EDMUNDS. What difference does that make to the contracts of the United States, if the Senator will tell me? I await a reply.

Mr. JOHNSTON. It is proposed to deduct anything that he received for his services.

Mr. EDMUNDS. He did not receive a pension for services by a contract. A pension is not a contract. This is a most extraordinary state of things. Here is this officer so wronged to the United States that we have not paid him a sum of money due to him by a contract, a thing of absolute obligation; and now when we come to our senses and are disposed to do justice, we are going to turn around and offset a pension we gave him and take that out of the sum due him on a contract. Did he ever agree to that? I am astonished at it.

Now, let us begin again at where we were starting. This gentleman died, the report says, in 1828. The report does not say anything about a pension. That is something we know nothing about. This gentleman died in 1828. The war ended, according to the best of my recollection, in 1783; if I am wrong any Senator who was present at the time can correct me. [Laughter.] There are seventeen years in the last century and there are twenty-eight years in the present century, making forty-five years of half-pay at say $500 a year, which I take it is a very low estimate; but I do not wish to exaggerate this thing at all. There are $22,500 of absolute principal said by this bill to be due to this man as a matter of legal right, because by the act of the Continental Congress of 1780 it was provided that officers should have half-pay for the remainder of their lives, just as we provide that officers shall have thirty dollars per month and twenty-five dollars of a certain other class and twenty dollars of a certain other class during their lives by our pension acts. There are $22,500 to be paid to this officer. How did it happen, by the way, that this officer never made any claim upon the United States for any part of this $22,500, which had been accumulating down to the time of his death, or, to take it as the Senator puts it, down to the time when he got a pension in 1818? How did it happen that during all the time from 1783 to 1818, a period of thirty-five years, this gentleman, so far as the report shows, so far as the statements of the Department show, so far as we have any evidence at all, never made the slightest pretext that this old, obsolete act of Congress had anything to do with the subject? I will tell you how I think it happened, because this is a subject with which some committees that I have been connected with in times gone by have had considerable to do. Every year or two there would be a claim of this kind which in one way or another would be brought before us. It happened in this way: Soon after the war Congress found and these officers found and other people connected with the administration of the Army found that that provision could not be made effectual; in the first place that the sum to be paid was enormous in proportion to what it ought to be; that is to say it was vastly greater than any country had ever given by way of reward or pensions to the general body of its soldiers and officers. Therefore it was proposed, and it was done, that all this half-pay and other war claims should be commuted into pensions, and pensions were provided long before 1818, and parties got them from year to year as they made application to the proper officers then charged with the allowance of pensions for them. The consequence was that all these claims, if you could call them claims, all these rights if you could call them rights under the act of 1780 were considered as waived and lost and gone in the first decade of this present century. That is more than sixty years ago. That is the fact about it; and therefore this man in his lifetime, as did almost every one of the other officers of the Continental Line in their lifetimes, took voluntarily and gladly this new arrangement and provision that Congress had made for them, and from time to time, as they applied and proved the facts upon which they were entitled at all, received the pensions and provisions that Congress had made for them and abandoned all claim to this allowance.

It does happen that now and then some heir of some one of these ancient officers who served their country so well—not any better than officers have done since and not any worse; they did their duty—have made applications to Congress, and it would usually turn out on investigation that the claim had long since ceased to be the property of any one of the people or their descendants who were originally concerned in it, and it had come to be the property of some person who deals in claims as a mode of getting a subsistence. I do not by any means intimate that that is the case in this instance; and if it is a matter of legal right it does not make any difference whether it is or not. If the report is right in its principle that this is a debt which the United States cannot discharge itself from by repealing the statutes and providing the pensions and so on, and this officer never consented that the United States be discharged, then of course he had a perfectly good right to sell this claim, and any other person had a perfectly good right to buy it; and if he bought it at ten cents or ten dollars or twenty dollars or one hundred dollars, we are just as much bound to pay him as we were the original party. But if you put it upon the ground that we are performing an act of generosity, that we are doing an equity to somebody whom we have failed to fully provide for on account of his services to the public, then of course it is a material matter to inquire whether the person to whom this equity is to be done is going to get any benefit from it.

But I do not now speak of the subject upon that ground. I assume for the purposes of this argument that this claim belongs to the estate of this deceased officer, if it be a claim; but I do submit to my honorable friend from Virginia, who I know is careful of public interests, who I know does not intend to open the door here by a flat precedent of Congress for hundreds and thousands of similar applications made in behalf of the heirs of the great number of officers of the Continental Army for hundreds of thousands of dollars, where we all know as a matter of history, although we do not know it in each individual, that the claims as a body in the lifetime of the people who were concerned in them were abandoned and waived, and in lieu of them other provisions made by Congress for them were accepted and taken up—I submit that we should not take this step with our eyes closed to the consequence of establishing a precedent of this character. That is what I submit to the Senate and to the Senator from Virginia; and, Mr. President——

The PRESIDENT *pro tempore*. The morning hour having expired, the Senate resumes the consideration of the unfinished business of yesterday.

Mr. JOHNSTON. I hope this bill will be finished.

Mr. SHERMAN. No; I must object and insist on the regular order.

Mr. EDMUNDS. I think we can finish this bill in a short time. We have to meet this question some day or other.

Mr. SHERMAN. But this is the only day I have for the moiety bill.

Mr. JOHNSTON. I move to continue the consideration of the bill which was under consideration at the close of the morning hour.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Virginia.

Mr. SHERMAN. I hope the Senator will not press that motion. The moiety bill is now pending before us and ought to be passed to-day. To-morrow is set apart for other business.

Mr. JOHNSTON. We can get a vote on this bill in a few minutes.

Mr. SHERMAN. No private claim one hundred and fifty thousand years old ought to come in here to interfere with the current business of this generation.

Mr. JOHNSTON. If it is one hundred and fifty thousand years old, it ought to be paid if it is just.

Mr. SHERMAN. Well, call it fifty years old or one hundred years old. I hope the Senate will go on with the regular order.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Virginia.

The question being put, there were on a division—ayes 21, noes 18.

Mr. SHERMAN. I call for the yeas and nays.

The yeas and nays were ordered; and being taken resulted—yeas 11, nays 41; as follows:

YEAS—Messrs. Bogy, Conover, Goldthwaite, Gordon, Ingalls, Johnston, Kelly, Lewis, Merrimon, Mitchell, and Stewart—11.

NAYS—Messrs. Alcorn, Allison, Bayard, Boutwell, Buckingham, Carpenter, Chandler, Clayton, Conkling, Cooper, Davis, Edmunds, Ferry of Michigan, Flanagan, Frelinghuysen, Gilbert, Hager, Hamilton of Maryland, Hamilton of Texas, Harvey, Hitchcock, Logan, McCreery, Morrill of Vermont, Morton, Norwood, Oglesby, Pratt, Ramsey, Ransom, Robertson, Saulsbury, Schurz, Sherman, Stockton, Thurman, Tipton, Washburn, West, Windom, and Wright—41.

ABSENT—Messrs. Anthony, Boreman, Brownlow, Cameron, Cragin, Dennis, Dorsey, Fenton, Ferry of Connecticut, Hamlin, Howe, Jones, Morrill of Maine, Patterson, Pease, Sargent, Scott, Spencer, Sprague, Stevenson, and Wadleigh—21.

So the motion was not agreed to.

ARMY APPROPRIATION BILL.

Mr. WEST. I ask permission to make a report at this time from the committee of conference on the Army appropriation bill.

The PRESIDENT *pro tempore*. The Chair will receive it.

The Chief Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 1009) making appropriations for the support of the Army for the fiscal year ending June 30, 1875, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate recede from its amendments numbered 11 and 15.

That the House recede from its disagreement to the amendments of the Senate numbered 7 and 16, and agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: Strike out of said House amendment the words "and the Signal Corps", and insert in lieu thereof the word "which;" and the House agree to the same.

That the House recede from its disagreement to the amendments of the Senate numbered 3 and 4, and agree to the same with an amendment, as follows: Strike out of the text of the bill all from and including the word "provided" in line 9, page 2, of the bill down to and including the word "transportation," being the last proviso of the paragraph; strike out also the words of amendment numbered 4; and the Senate agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate numbered 6, and agree to the same as so amended.

That the House recede from its disagreement to the amendments of the Senate numbered 17, 18, 19, 20, 21, 22, 23, and 24, and agree to the same with amendments, as follows: Amend the text of the bill by inserting after the word "accounts," line 8, page 9 of the bill, (section 2,) the words "as have been reported to him for payment by the Quartermasters and the Commissary Departments," and the Senate agree to the same.

J. R. WEST,
J. W. STEVENSON,
JOHN A. LOGAN,
Managers on the part of the Senate.

W. A. WHEELER,
S. S. MARSHALL,
LLOYD LOWNDES, JR.,
Managers on the part of the House.

Mr. CONKLING. I ask for the reading of but a few lines near the close of the bill as it has been agreed upon, fixing the mileage and allowances of Army officers. It was in the original bill very near the close, I think.

Mr. WEST. Perhaps I can explain how the amendment stands better than the Clerk can. There was a provision in the bill relating to mileage for all officers, to which there was a proviso stating that nothing herein should be construed to allow more than ten cents a mile for such transportation. The Senate amended it by saying—

Except in cases where a greater sum has been paid for actual and necessary traveling expenses.

As a consequence the amendment of the Senate neutralized the proviso of the House, and the committee of conference agreed to strike out the proviso and the amendment that it neutralized, leaving it exactly as we substantially agreed on it.

Mr. CONKLING. I ask now to hear the words read as they stand in the bill.

Mr. SHERMAN. If this is going to take time I shall have to insist on its going over.

Mr. CONKLING. My request will take no time. I only want to have those lines read.

The CHIEF CLERK. The clause in the bill in which these words are found was as follows:

Provided, That only actual traveling expenses shall be allowed to any person whatever in the service of the United States, and all allowances for mileages and transportation in excess of the amount actually paid are hereby declared illegal; and no credit shall be allowed to any of the disbursing officers of the United States for payment or allowances in violation of this provision: *Provided further*, That nothing herein shall be construed to allow more than ten cents a mile for such transportation.

Mr. CONKLING. I did not hear all of the explanation made by the Senator from Louisiana, but I infer from the reading of the bill that it stands in substance as it came to us originally.

Mr. WEST. Very much; but I can tell you exactly how it is.

Mr. CONKLING. That general understanding is enough for my present purpose, which is to suggest that the effect will be to unsettle the compensation, virtually to destroy the compensation and probably to vacate the positions held by a large number of public employés scattered all over the country and having nothing to do with the Army. I think it is right since my attention has been called to the matter to make that one remark, and invite the attention of others to it.

The report was concurred in.

COMMITTEE SERVICE.

Mr. ALCORN, on his motion, was excused from serving on the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 2694) for the relief of Benjamin W. Reynolds.

Mr. WADLEIGH, on his motion, was excused from further service on the Committee on Public Lands, and Mr. HARVEY was appointed to fill the vacancy.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. E. BABCOCK, his Secretary, announced that the President had on the 8th instant approved and signed the act (S. No. 229) authorizing corrections to be made in errors in prize-lists.

The message also announced that the President had on this day approved and signed the following acts:

An act (S. No. 369) to change the name of the registered steamer Oakes Ames to Champlain;

An act (S. No. 708) to change the name of the schooner China; and

An act (S. No. 766) to grant an American register to the steamship Suffolk, and to change the name of said steamship to that of Professor Morse.

MOIETIES UNDER CUSTOMS LAWS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 3171) to amend the customs-revenue laws and to repeal moieties.

The Chief Clerk continued the reading of the bill.

The next amendment reported by the Committee on Finance was in section (6) 8, line 11, after the word "relate," to strike out the words, "provided that in every such case, whenever the officer or person entitled to any share in the fine, penalty, or forfeiture shall appear as a witness;" in line 14, before the words "the defendant," to insert the words "and in every such case;" and in the same line, before the word "testify," to insert the words "appear and;" so that the section will read:

SEC. [6] 8. That no officer or other person entitled to or claiming compensation under any provision of this act shall be thereby disqualified from becoming a witness in any action, suit, or proceeding for the recovery, mitigation, or remission thereof, but shall be subject to examination and cross-examination in like manner with other witnesses, without being thereby deprived of any right, title, share, or interest in any fine, penalty, or forfeiture to which such examination may relate; and in every such case the defendant or defendants may appear and testify and be examined and cross-examined in like manner.

Mr. SHERMAN. It is a mere change of phraseology.

The amendment was agreed to.

The reading of the bill was resumed. Section [7] 9 was read:

SEC. [7] 9. That except in the case of personal effects accompanying the passenger, no importation exceeding $100 in dutiable value shall be admitted to entry without the production of a duly-certified invoice thereof as required by law, or of an affidavit made by the owner, importer, or consignee, before any officer authorized to administer oaths, showing why it is impracticable to produce such invoice.

Mr. CONKLING. As the most economical way of proceeding with this bill probably is to refer to such things as occur as we pass along, I here call attention to the fact that by this section in the city of New York alone upward of two thousand notaries public are authorized to administer the oaths on which this proceeding is to be based. I do not dwell upon it. Of course the Senate is aware that notaries public are men of all professions, not only lawyers but clerks in banks and elsewhere, men entirely unfamiliar with this matter, men whose handwritings are not known at all; and of course it opens a very wide door for every sort of imposition that may be practiced by the forging of a jurat, and from that up there are manifold ways which it must appear to everybody can be resorted to to practice imposition under a section of this sort. Without making any motion about it, I simply call attention to its effects in that one respect.

Mr. SHERMAN. I have no doubt some possible criticism might be made; but under the present system a custom-house oath is usually made before a custom-house officer, and taken in so hurried a way that it is not even read. Indeed, I happened to be in the New York custom-house once or twice and saw these oaths administered. I thought of all the shameless carelessness with which an oath could be administered it was the worst of all. I suppose this is an attempt to correct that, to require the jurat to be made before a proper officer authorized to administer oaths. I am not sufficiently informed as to the reasons for this section to know what they were, but I presume the purpose was to avoid this mode of administering oaths in the custom-houses, where the book is handed to a man with the words "You say so," or "It is so," and the thing is done in the greatest possible hurry.

Mr. CONKLING. In reply to the Senator from Ohio I would say that my attention has long been fixed upon the inconvenience of requiring men to go to the custom-house to make an oath before a particular officer or one of two officers. I have long thought there should be a provision by which offices should be fixed in a city so large as New York at different points, and some persons there stationed authorized to administer an oath. Such an arrangement would have provided according to the discretion of the law or the Department a half dozen or a dozen persons conveniently located about the city for this purpose. I have no doubt the Senator from Ohio is quite right, indeed I know he is, in saying that great haste and much inconvenience arise from requiring the large number of papers which must be verified to be verified at one place in so large a city, and before one or a very few officers there stationed; but the Senator from Ohio must see that when you allow not only an oath to be taken, but something more to be done before officers who have no seal, including every justice of the peace, every commissioner of deeds, every notary public, and that in a city where of notaries public alone there are more than two thousand, men of all employments, of all professions, not even lawyers, without any skill whatever in this business, you open a door very wide. I said "something more than an oath to be taken;" and in order to direct attention to what I mean, I will read this section:

SEC. [7] 8. That except in the case of personal effects accompanying the passenger, no importation exceeding $100 in dutiable value shall be admitted to entry without the production of a duly certified invoice thereof as required by law, or of an affidavit made by the owner, importer, or consignee, before any officer authorized to administer oaths, showing why it is impracticable to produce such invoice.

If it were merely the taking of a stereotyped oath, if it were merely to verify a certain paper, the danger here would be much less; but this is to be an affidavit in no common form, an affidavit which in every case must be special, pointing out the reasons for the non-production of a paper. Everybody must see that when the oath is not taken in the presence of the officer, when he does not see the paper, when he does not know how the affidavit was or what it stated when sworn to, but it is taken somewhere else, before an officer whose signature he does not know at all, whether anything is interlined afterward, what may be interpolated, what may occur to this affidavit before it comes to stand in the place of the invoice, become matters of great uncertainty, it seems to me. And as I am commenting upon this, I will say in the same breath that when we reach a later section of this bill I intend, if the time shall be convenient, to endeavor to point out that in addition to abolishing moieties and in addition to breaking up the acts under which books and papers may be inspected, we are proceeding in this bill to matters entirely foreign to those topics and in a way which I cannot doubt, with all the information I can get in regard to it, is to expose the collection of the revenue to great and unnecessary hazard.

This is one thing, and it is comparatively a slight thing; I will not dwell upon it; but, as I say, when we reach a later section I shall venture to point out various objections in it into one of which this will enter, which I hope may induce the committee to modify so far these provisions as to close some of these loop-holes.

The Chief Clerk resumed the reading of the bill, and read section [8] 10, as follows:

SEC. [8] 10. That no entry shall be made in the absence of a certified invoice, upon affidavit as aforesaid, unless such affidavit be accompanied by a statement, in the form of an invoice or otherwise, showing either the actual cost of the merchandise included in such importation, or, to the best of the knowledge, information, and belief of the deponent, the foreign market value thereof; which statement shall be verified by the owner, importer, consignee, or agent desiring to make entry of the merchandise, and which oath shall be administered by the collector or his deputy.

Mr. CONKLING. Now I stop there a moment in the hope that I may invite the attention of some Senators to that. Compare these two sections. The first requires an oath which might be of some value, and it ought to be of some value. Why? Because it is an oath to be taken by the owner, importer, or consignee. Each one of these

persons has knowledge of this matter. If perjury is committed, he might be convicted of perjury because you could show what the law terms the *scienter*. When you come to the next section, having provided that the owner may come before anybody authorized to administer an oath and take the oath, you require the next verification to be before a custom-house officer. That is wise so far as to who is to verify. Read this section:

Which statement shall be verified by the owner, importer, consignee, or agent desiring to make entry of the merchandise.

That every man knows means a custom-house broker. First, the consignee may go before a notary public or anybody else, and take this oath which is prescribed. That advances one step. When you come to the real test of the matter you require the oath to be taken before the custom-house officer. Who is to do that? Nobody is required to do it but the custom-house broker, and the next section should be read in connection with this in order to appreciate the value or the want of value in this provision:

That before such oath is taken, it shall be lawful for the collector or deputy administering the same to question the deponent touching the sources of his knowledge—

Whose knowledge? The consignee's or the owner's? Not at all, but the broker's—

touching the sources of his knowledge, information, or belief in the premises, and to require him to make oath to the same, and to produce any letter or paper in his possession or under his control.

Whose control? Under the control of the broker or agent. Observe the effect of this. I am an importer, and I mean to smuggle even within the narrow limits assigned to smuggling by a preceding section. I am part and heart of the whole transaction. I have papers and books which show that the transaction was manifestly one of smuggling. When I reach the point in the proceeding which we have now reached in this bill, I hand over the formal affidavit with the invoice to a custom-house broker, and go my way. The custom-house broker goes down. The official before whom he is to make the verification examines him as to the sources of his, the broker's, information, and asks him whether he has any papers in his possession, and when they have exhausted him, that is the end of the whole proceeding; and the bill draws between me and my agent a line, on one side of which be my case never so fraudulent I may stay in security, and on the other side of which the broker is operating, and the law entirely falling short of reaching me.

Now, I think if this bill were attracting a little more attention, if the Senators here were not so few and the thing treated with so much indifference as it is, in addition to that which the bill previously does, namely, sweeping away moieties, so called, and repealing the section by which inquest may be had of books and papers, I can hardly think the judgment of the Senate would say that a provision was wise committing to a broker or an agent the whole power of making the oath upon such information as may be given to him which is to carry merchandise through the custom-house and subject it, as far as it is to be subjected at all, to the duties upon it.

The Chief Clerk continued the reading of the bill.

The next amendment of the Committee on Finance was in section [10] 12, line 13, to strike out the words "a joint or several actions," and to insert the words "an action in the name of the United States;" so that the clause will read:

Shall severally forfeit and pay a fine of not more than $5,000 for each offense, to be recovered by an action in the name of the United States, in any district court or circuit court of the United States.

The PRESIDING OFFICER, (Mr. MERRIMON in the chair.) This amendment will be considered as agreed to if there is no objection.

Mr. CONKLING. I venture to make one suggestion here to the committee. Perhaps I ought to have said before, at any rate now that I think of it I take care to say, that I beg the Senators having this bill in charge to understand that I am not seeking to find fault with the bill. Indeed most of the things to which I have called attention I believe were in the House bill and would not be chargeable upon the committee of this body. Be that as it may, I make these suggestions and I refrain from offering amendment because I think if any changes are worth while, they can be made more wisely and appropriately by members of the committee. My purpose is merely to call attention as we pass along to some of these things.

At this point the Chair was about to state that there being no objection the amendment which occurs in line 13 would be considered agreed to. What is that amendment? It is to strike out the words "by a joint or several actions," and make it read "by an action in the name of the United States in any district court of the United States."

I stop there to observe, that here are a number of men in collusion committing the crime of smuggling. Mere information comes to the prosecuting officer, and he commences a suit or takes a proceeding against one or some or all of those really guilty. That proceeding goes to judgment, and then, as I understand this amendment, the Government is forever barred and estopped. If it has sued the wrong man, if there is an improper joinder, if for any reason whatever the Government is defeated in the action, that one action bars all remedy, no matter how flagrant or how palpable upon after discovery the case may be.

Mr. SHERMAN. I wish to say a word to the Senator from New York in regard to this bill that he may see exactly the condition in which it is placed and the reason why I have not deemed it my duty to reply more distinctly to the points of objection that he makes against the bill.

In the first place, this bill has been very maturely considered in the House of Representatives, it having been the chief work of one of the committees of that body, considered in connection with the Treasury Department. It was debated for some days in the House of Representatives. It came to this body and was referred to the Committee on Finance. In some respects the subject-matter of the bill probably might be referred to that committee and in some respects it might be referred to the Committee on Commerce. I have no doubt the Committee on Commerce are more familiar with the details of invoices and the modes and operations of commercial matters. But it was referred to our committee, and we thereupon referred it to a sub-committee and sent it to the Department, invoking the most careful criticism of it in detail, especially as to the working operations of the bill. The sections recently read by the Senator are sections which relate simply to the formal working of the machinery of the bill, the passing of invoices, the making of affidavits, formal papers, who should take the oath, who should sign the papers, &c. To those sections the especial attention of the proper Department was called; and I have in my hand a statement from the Department, signed by the Secretary of the Treasury, and also from the officer in charge of the customs revenue, going in detail over these sections.

Mr. CONKLING. May I ask the Senator can he lay his hand on the remark made by the Department on this section and the remedy given here, one action in the name of the United States?

Mr. SHERMAN. No objection is made to that section by the Secretary of the Treasury. The amendment to strike out the words "a joint or several actions" is an amendment of the Committee on Finance. I do not see in this statement any recommendation of that amendment, although I thought there was. The sections are numbered in this statement in their order. Yes; I think that very amendment is mentioned.

Mr. CONKLING. It is section 10 in the House bill, section 12 in your print.

Mr. SHERMAN. I do not see any criticism in regard to that, the substitution of one action for a joint or several actions.

Mr. CONKLING. Nothing about section 12 at all?

Mr. SHERMAN. No, sir; I think not. It speaks about section 12, but I think it means section 13, the next section. This formal criticism together with a mass of documents and letters in regard to the various sections and provisions of this bill all come from the Treasury Department. Besides that, this bill was submitted to many custom-house officers familiar with the ordinary course of business. I myself called the attention of several persons, by letter, to the bill and the details of the bill, persons in the city of New York for instance, and the bill itself has been submitted to the scrutiny of merchants in New York who have been here advocating or opposing various amendments to the bill; so that so far as the general examination of the bill is concerned, the scrutiny of the bill, it would be impossible to give it a greater scrutiny. I am only sorry now that I am not more familiar with the actual details of the ordinary routine operations in the custom-house, so that I could meet and perhaps answer the objections made by the Senator from New York; but I rely in these matters very much indeed upon the opinion of the gentleman who was Secretary of the Treasury and also upon the Senator from Maine, [Mr. HAMLIN,] who has himself been an actual administrator of a custom-house.

Having made these remarks, the Senator from New York will excuse me from attempting to answer the objections made to these formal sections in regard to the administration of the custom-house; for instance, his comments upon the tenth section. The custom-house broker or agent makes the oath now, as I understand it.

Mr. CONKLING. No.

Mr. SHERMAN. I think so. I know I have imported goods through New York, and I never took a custom-house oath in my life, but somebody did it for me; and I suppose, as a matter of course, the consignee of the goods to whom they were sent made the oath.

Mr. CONKLING. Certainly, the consignee did.

Mr. SHERMAN. The consignee is an agent in one sense of the word.

Mr. CONKLING. If my friend will pardon me, I do not wish to interrupt him, but the point of my criticism is this: Under the law as it now stands, not only the consignee of the goods and the owner may be resorted to, but the books and papers within his power may be required.

Mr. SHERMAN. This gives that.

Mr. CONKLING. If the Senator will pardon me, this does not give that. On the contrary, this bill expressly is satisfied with whatever the agent himself may know and by the production of any invoice or paper within his power. That is the very point of my criticism, that the change which this makes now is to substitute the knowledge of the broker, who may know nothing about it whatever, for the knowledge of the person to whom the law now points, who must from necessity know all about it.

Mr. SHERMAN. I again go back and say if there was any defect of that kind in the machinery of this bill, certainly those officers who are most interested in preventing any evasions of the revenue to

whom the bill has been submitted and who have examined it under our instructions with the utmost care for any defects, would have reported it. But if the Senator from New York thinks this bill is in any respect defective so as to open the revenue to any frauds or evasions, and he will suggest such amendments as will prevent them, I certainly will listen to them with great attention, and shall feel disposed to agree to any reasonable amendment that he may offer. If upon his own experience or any information he can get he can point out amendments to this bill which he thinks will strengthen it, I shall be very glad indeed to have him do so, and I will listen with attention to any amendments that he may offer.

As to the particular amendment now pending, whether or not the action should be recovered for a single penalty, this provides for a single penalty. The section provides that if a person fails to do a certain thing, or neglects to do it, or fails to produce copies of papers, &c., he shall specially forfeit and pay a fine of not more than $5,000 for each offense, to be recovered as the House have provided, by a joint or several action in any circuit or district court of the United States. The Committee on Finance thought that for a single offense there ought to be an action in the name of the United States. If there can be two actions for the same penalty, then it may be better to have it read "joint or several actions," as the House have it. My friend from New Hampshire [Mr. WADLEIGH] shakes his head, so that I take it we have made a wise amendment. It seemed to us that an action in the name of the United States, without saying whether it should be joint or several, would be sufficient to cover all proper remedies for the penalty.

Mr. CONKLING. In reply to the Senator from Ohio I wish to make one or two observations. The Senator speaks of custom-house officers having advised in regard to this bill. I wish to say one word in respect of the officers of customs at the port of New York. They being interested pecuniarily in parts of this bill have been perhaps properly, at all events totally abstinent, so far as I know, of all suggestions and all efforts in regard to it. If they have been applied to for information, I doubt not they have responded; but I feel quite sure from what I know that their intention has been to abstain absolutely from all interference with this bill, and that I will say of those officers, and markedly in respect of the collector, is in accordance with the very high character which he deserves not only for integrity but for manhood in all regards. The last part of his design has been, I am quite sure, to do anything whatever which would lead it to be even suspected that he was attempting to interpose his private interests against the public good.

Mr. SHERMAN. If the Senator from New York will allow me, I desire to add to what I stated that I did not apply to the collector of the port of New York or to the officers there, because upon inquiry of the Senator from New York for the name and address of those gentlemen he suggested himself that probably they would be disinclined to object to a bill that undoubtedly affected their compensation largely. I thought it was a proper suggestion, and did not make any application to those gentlemen; and I can say of those custom-house officers, although their interests are deeply involved by the passage of this bill, by the repeal of moieties, no one of them has ever approached us in regard to any objections to it. We have looked at it simply in the light of the public service. I say that in their behalf. Not one of them sought to obstruct the passage of this bill.

Mr. CONKLING. I am very glad to hear the Senator from Ohio say that. His statement will be borne out I think by the statement of every member on this floor who shall make any statement in regard to it. These gentlemen have abstained absolutely from doing anything directly or indirectly, so far as I know, to influence this legislation, and especially to interpose anything in respect to their interests.

Turning to another remark of the Senator, I wish to say that district attorneys have written to me; and I do not refer to the district attorney for the southern district of New York alone by any means; but district attorneys in other districts have suggested to me by letter and personally some of the objections to which I have called attention of the Senator from Ohio and many other objections to which I have not called his attention. They have suggested to me objections to this very section which we are now considering, section 12, and with so much earnestness and that in respect of which they can have no personal interest, I take it, that I can hardly conceive that any lawyer familiar with the revenue laws and their execution has undertaken in reviewing this bill to pronounce favorably upon this section. But I simply make the statement now that some of these objections have been suggested to me by different law officers of the Government, although they have not come in any sense from the officers of customs interested in moieties.

Mr. WADLEIGH. Mr. President, it seems to me that the criticism made by the Senator from New York upon the amendment in line 13 of section 12 is not well founded. The bill as sent to us from the House provides that any persons offending against this act shall severally forfeit and pay a fine of not more than $5,000 for each offense; and it seems that the bill also provided then that that fine or that penalty should be recovered by a joint or several action. The committee have amended it by striking out the words "a joint or several actions," and providing that it shall be recovered by "an action in the name of the United States," and the Senator from New York insists that the several penalties shall be recovered by a joint or several actions.

Mr. CONKLING. The Senator must not say that. He must not put in my mouth a thing which would show such total ignorance as that. The Senator from New York insists, when you provide a penalty against various persons and provide that that penalty may be recovered in such action as is adapted to it, whether it be joint or several, that you may leave the pleader or the district attorney to draw his declaration; whereas when you say, speaking of a number of persons in severalty, that the penalty must be recovered in one action, even if the action would lie, upon which point I made no suggestion at all, you there run the risk if you fail in one action of being forever concluded, no matter what evidence may be discovered afterward on which you could recover against other of these persons. That was my suggestion.

Mr. WADLEIGH. I think the Senator is mistaken in the law.

Mr. CONKLING. I do not say that I am not, but I do not want the Senator to misquote what I say.

Mr. WADLEIGH. The section provides that any person who shall be guilty under this act shall forfeit a penalty of not more than $5,000 for each offense. Now under this amendment the actions are to be severally brought and severally tried. If one of the parties against whom such a prosecution is brought is found to be not guilty, I am not aware that that verdict can have any effect upon any subsequent prosecution against another person. I am unaware how any such a verdict can have any such effect. Each of these actions of prosecution being a separate prosecution is to stand upon its own merits, and the fact that in a former prosecution a verdict of acquittal was rendered in favor of somebody else cannot be used in any way, either as evidence or as matter of estoppel in a subsequent prosecution against somebody else. In my judgment, the amendment is correct and right.

The PRESIDING OFFICER. Does the Chair understand the Senator from New York to object to the amendment?

Mr. CONKLING, No, sir.

The PRESIDING OFFICER. If there is no objection, the amendment will be considered as adopted.

The next amendment was in section [10] 12, line 15, to strike out the words "as aforesaid;" and in lines 16, 17, and 18, to strike out the words "liable to forfeiture, which forfeiture shall apply only to the particular item of merchandise to which such fraud, or alleged fraud, relates," and to insert in lieu thereof the words "forfeited; which forfeiture shall only apply to the particular item of merchandise to which such fraud or alleged fraud relates and anything contained in any act which provides for the confiscation of an entire invoice in consequence of any item or items contained in the same being undervalued be, and the same is hereby, repealed; so that the section will read:

SEC. [10] 12. That any owner, importer, consignee, agent, or other person who shall, with intent to defraud the revenue, make, or attempt to make, any entry of imported merchandise, by means of any fraudulent or false invoice, affidavit, letter, or paper, or by means of any false statement, written or verbal, or who shall be guilty of any willful act or omission by means whereof the United States shall be deprived of the lawful duties, or any portion thereof, accruing upon the merchandise, or any portion thereof, embraced or referred to in such invoice, affidavit, letter, paper, or statement, or affected by such act or omission, shall severally forfeit and pay a fine of not more than $5,000 for each offense, to be recovered by an action in the name of the United States, in any district or circuit court of the United States; and in addition to such fine as aforesaid, such merchandise shall be forfeited; which forfeiture shall only apply to the particular item of merchandise to which such fraud or alleged fraud relates; and anything contained in any act which provides for the confiscation of an entire invoice in consequence of any item or items contained in the same being undervalued be, and the same is hereby, repealed.

Mr. CHANDLER. This clause I think could not have been understood by the committee reporting it. It is evidently in the interest of smugglers, and certainly the Committee on Finance never intended to put in a clause expressly for their benefit. It is very well known that the great leak in our Treasury proceeds from undervaluation. For example, you take a cheap fabric and put in with it a much more expensive fabric, inventorying them all at the lower price. Now, this clause simply proposes to confiscate the article which is undervalued. The law as it now stands confiscates the whole, but you now propose to take simply the article undervalued and allow the rest of the invoice to go scot-free. Take, for example, silks from Belgium. In a case of silks a similar package to the case of silks will be put in with lace shawls. A single lace shawl is perhaps worth a whole case of silks. In such a case, if the fraud is detected, you say the silks are to go scot-free and you are to confiscate the lace shawl. The duty is, I think, 60 per cent., and if the importers lose every third invoice, they are making enormous profits upon the smuggling transactions; and yet you say to the smuggler, "Although you may have been successful three or four times; although you may have made 400 per cent. or 500 per cent. upon the risk, still you risk nothing but the article itself."

Now, Mr. President, I am sure, if there is a merchant within the sound of my voice, he understands this thing and the operation of it, and I am sure if there is a merchant upon this floor he will see that this should be entitled "An act to encourage smuggling." That certainly was not the intent of the Committee on Finance in reporting the bill.

I now move, if it is in order, and I believe it is, to strike out all after the word "forfeited" in the eighteenth line, allowing the amendments that have been made to remain. Mark you, Mr. President, as the law now stands the whole invoice is forfeited. This clause re-

leases the whole invoice except the smuggled article. I want the whole invoice to be forfeited, and I want the $5,000 fine in addition. I want to protect the honest importer, and I would make it a state-prison offense in addition to the $5,000 fine upon the dishonest smuggler. I move to strike out in the eighteenth line after "forfeited" the rest of the section, in these words:

Which forfeiture shall only apply to the particular item of merchandise to which such fraud or alleged fraud relates; and anything contained in any act which provides for the confiscation of an entire invoice in consequence of any item or items contained in the same being undervalued be, and the same is hereby, repealed.

I ask that that be stricken out, and I think that the Committee on Finance will agree with me after the explanation which I have given.

Mr. MORRILL, of Vermont. It has long been felt to be a very great hardship by the honest importers throughout the country that in case of an undervaluation so great that it shall be considered a fraud the entire invoice shall be forfeited. By this clause it is proposed to change the existing laws on this subject, and instead of forfeiting the entire invoice where the undervaluation or the fraud, constructive or otherwise, may be a very small and insignificant matter, it will not hereafter allow the forfeiture of the entire invoice. That was the subject of great complaint in the celebrated case of Phelps, Dodge & Co., where the whole amount of undervaluation was about $1,600 I believe, and yet the estimated forfeiture amounted to a million and a half or more. My impression is that the honest importers throughout the country have regarded this law as a very onerous provision, and if we retain this clause as it is, subjecting the parties to a fine of not more than $5,000 and to the forfeiture of any article that shall be undervalued so as to be considered a case of fraud, I think that will be amply sufficient to protect the revenue of the country.

Mr. BAYARD. In order that the Senate may realize the present condition of the law and the very great hardships upon honest merchants which are made possible, which are indeed the necessary result of continuing the present law, and to exhibit to the Senate the necessity for the pending amendment, I will refer to a case that was spoken of yesterday. Under the present law and its strict construction according to the views of Treasury special agents, collectors, and others who pass upon these cases, the house of Phelps, Dodge & Co., in New York, would have technically lost $1,750,000 for the undervaluation of a small class of their importations scattered through a series of invoices for five or six years, the whole value of which did not amount to $6,000, and the duty upon which was $1,600. Because, forsooth, a house that had been paying duties by tens of millions into the Treasury during that period of five years, by the undervaluation, innocent or otherwise, of a clerk, an agent, or some one connected with their great and multifarious business, have made an error of $300 in any one year, the whole fortune of that firm, the accumulation of their whole honest business lives, was to be swept away for that technical infraction of the revenue laws!

My friend [Mr. MORRILL, of Vermont] remarks to me that during the very period of five years in which there were undervaluations in this enormous business to the amount of $6,000, there were by the same firm overvaluations very far in excess of the amount of their undervaluations. The amount of duty which they paid to the Treasury on certain invoices over and above that which the law demanded from them during that same period of time was largely in excess of the undervaluation for which they were condemned; and yet under the technical application of the law they were compelled to pay the enormous sum of two hundred and seventy-odd thousand dollars.

Mr. CONKLING. May I inquire of the Senator, is not that the precise sum which this amendment would fix?

Mr. BAYARD. No; the precise sum, as I understand, taken from these people would be $6,000, because it would have been the items in the invoices to be affected, not the invoices themselves.

Mr. CONKLING. If my friend will pardon me, he is quite in error as to the fact. That compromise was made, as all the papers show, by taking the total of tainted items so called, precisely that total which this amendment points out. There was no forfeiture of the invoices whatever, but only of the items in which the undervaluation had taken place.

Mr. BAYARD. I have here the statement of Mr. Dodge made under examination and cross-examination before a committee of the other House. I do not care, however, to raise a side issue or an issue perfectly immaterial as to the fact. My object was to speak correctly, and I think I have done so.

But if I succeed in showing to the Senate that the object of this bill is a wholesome, moderate, just amelioration of the present law, they will not hesitate, I think, to adopt the amendments both of the House of Representatives and of the Senate committee. The question is whether a single item in an invoice being undervalued shall taint the entire invoice. There is no protection to smuggling here. If the item be undervalued, two things follow: the condemnation of the item, and the punishment of the merchant for his attempting to undervalue at all. The penalty of $5,000 is not proportioned simply to the sum of which he is endeavoring to defraud the revenue. The penalty is for the crime *per se*. The question is, when the undervaluation has been made and the forfeiture takes place, whether it shall taint an entire invoice because of the error in regard to that single item.

Now, when you remember that this bill has been the result of long investigation by the committees of both Houses, that it is the result of very extended examination, of accumulated testimony from the best commercial sources, that it is in the strongest sense of the word a reform demanded by the facts made known to Congress during the past winter and by prior investigations of committees of Congress, I think there need be no hesitation in confining the condemnation of the items of an invoice to the undervalued items. It does not, as I say, affect the cumulative penalty, the fine, or the imprisonment that may come as the just punishment for smuggling. It simply restricts the forfeiture to what it reasonably should be restricted to; that is, it restricts the forfeiture to the single item which is tainted by the undervaluation and it does not affect the rest.

I can join with the Senator from Michigan in the very hearty denunciation of dishonest merchants and the necessity for their punishment. I said yesterday that if this abominable system of seizures and moieties, which the present measure is meant to do away with, had but been relaxed in a single case so that one dishonest merchant who had committed perjury and other infractions of law, as he must have done to obtain his goods at a lower rate of duty through the custom-house, had been landed where he ought to have been, in the penitentiary of the State of New York or elsewhere, where the crime was committed, you would have had a better lesson, a more effective prevention of smuggling than a thousand years of your system as conducted under the seizure and moiety law. What we want is a disinterested, upright, stern administration of penal law on this subject, and that public justice shall not be sold as it has been and glossed over in order to bring money into the hands of moiety-seekers and informers. It is well known that the practice is, when a settlement has once been made, when the merchant has once paid this sum, all penalties, all imprisonment, all punishment, all further disgrace are condoned. They are all merged in the money that passes into the pocket of the informer and the moiety-sharer.

This bill and this portion of the bill are alike necessary, and they are demanded at the present time in my belief by the experience of the workings of bad laws. I shall rejoice with the Senator from Michigan over the punishment of every infraction of the revenue law. I have, as he has, nothing but condemnation to award to men who will bring disgrace upon the reputation of American merchants; but we have abundant law for their punishment, and there is no necessity for this wholesale condemnation of property because a single item of an invoice has been undervalued.

Mr. CHANDLER. It is very well known that the law as it is leaves the remedy in the hands of the Secretary of the Treasury. It is the intent which is punished. I will not go into the case of Phelps, Dodge & Co.; but I will say that it is the most remarkable case on record, where there was no intent to defraud, where the parties were assured if there was no intent to defraud the penalty would be remitted, that a house should pay two hundred and seventy-odd thousand dollars when there was only sixteen hundred dollars due. But I will not discuss that, for I know nothing about it.

But, Mr. President, the power is left purposely with the Secretary of the Treasury to remit any fines that may be imposed. It is well known that the receipts of the New York custom-house are perfectly enormous, and it is likewise well known that in several branches of traffic the American merchant has been driven from the field. He cannot compete in certain articles of German production. That has been so for the last quarter of a century; and why? On account of frauds in the custom-house, on account of undervaluations. These men go on day after day, and week after week, and month after month, and year after year, with their undervaluations and their false swearing; they roll up millions of dollars of profits by false swearing; and then after you have unearthed their rascality you say they simply suffer to the extent of the value of the article undervalued. Why, sir, this thing has been going on every year and every day of every year for years. They would take a case of cotton goods and put in a few pieces of other goods in the case. It is not the custom of the custom-house inspectors to go over the whole of an invoice or to examine the whole of a package. They examine the top, and in the middle are these very valuable goods, and this goes on for years; and when at last you detect the man in the intent to defraud your Treasury, you say he shall simply forfeit the article upon which he meant to cheat, and if there was no intent to defraud then there is no penalty, for you leave it in the hands of your chief executive officer to remit the penalty in every instance where there was no intent to defraud.

Mr. President, I hope this clause will be stricken out, and I should like to put an additional penalty upon that $5,000, of imprisonment in the State prison for five years for intent to defraud.

The PRESIDING OFFICER, (Mr. OGLESBY in the chair.) The question is on the amendment of the Senator from Michigan to the amendment proposed by the Committee on Finance.

Mr. HAMLIN. I believe I am as desirous of co-operating with Senators here who seek to effect a remedy for existing evils in the revenue laws, and am as heartily disposed to accomplish that object as any member of this body; but I believe that in seeking a remedy for existing evils, it is very easy to do that which may be often worse than the one which we seek to correct.

I do not think there would be any difficulty in enlarging the powers of the Secretary, if there were any necessity for it, to relieve honest merchants beyond what he now has the power to do. If there be a necessity, that in my judgment is the remedy to be sought in

cases where invoices have been made at a lower valuation than they should be, but without the knowledge or without the fraudulent intent of the shippers. There is not the slightest trouble in the world in extending the equitable powers of your Treasury Department if they need an extension, and to make them more ample than they now are to meet all such cases as have arisen and as have been alluded to in this debate.

But in seeking a remedy in another direction, you invite dishonesty in commercial transactions. If you allow this language to pass into a law, my word for it it will affect your revenue to the extent of millions of dollars every year. There can be no more doubt about it in my judgment than there is in the mathematical proposition that two and two make four.

My slight acquaintance with the administration of the law leads me to know that in commercial communities where merchants are of the highest tone they have to compete with another class of men who do not possess their character and their integrity, and we here to-day in this body owe a protection to the honest merchant, while we seek to inflict a penalty upon the dishonest. If you pass into a law the provision of this bill, you give a direct inducement for that class of men in your community who are brought into competition with the honest, the upright, and high-toned merchants, to make the attempt to get into the country in boxes, in packages, and in a variety of ways a half or a quarter of the portion of their invoice which is in value vastly beyond the amount of the remaining portion of the packages or boxes, and if you only hold that amount which is thus fraudulently undervalued, if you attach to the act no penalty beyond that, you certainly induce the man who is dishonest to make the attempt, because you inflict upon him a penalty less than he would suffer if the package or the box were wholly made up of articles of higher price with an undervaluation. There can be no doubt in my judgment that it is a direct inducement, an inducement that will make the honest merchant in New York and Boston and Baltimore suffer more than you can relieve the honest merchants by it.

I have not a doubt that that clause will diminish your revenues by millions. I do not know but that you might go one step further. I think there is inducement enough for smuggling now under this bill. Before you dispose of it you may give a little bounty to the man who shall commit fraudulent transactions upon your revenue; but it comes so near that now that I do not think it would be quite necessary to do that. It is changing your whole law. It is as easy as anything in the world can be to enlarge the equity powers of your Treasury Department if you want to do it. But, I repeat again, if this language remains in the bill, it will lead, in my judgment, to the very essential and very great injury of every honest merchant in the country and to the very large diminution of your revenue.

That is my judgment; and having those opinions, while you correct your existing evils, I want to vote for no provisions that will open up objections which will still be greater than those that now exist, evils greater than those which we are now seeking to remedy.

Mr. MORRILL, of Vermont. I am very reluctant to disagree with the Senator from Maine on this subject, but it seems to me that the Senator goes upon the idea that all of the importers are rascals.

Mr. HAMLIN. No, sir; I do not.

Mr. MORRILL, of Vermont. I do not believe any such thing. And again, the Senator from Maine proposes to do away with this provision and then provide that the Secretary of the Treasury shall have power to remit all fines and forfeitures in these cases. Now, Mr. President, it seems to me that we had better have a moderate law and enforce it in every case rather than to have an extravagant one that never will be enforced in any case. I do believe that this amount of forfeiture with the fine and penalty is sufficient. I do not believe if we give the power to the Secretary of the Treasury to remit a fine in case the whole invoice was forfeited that it would be enforced in one case in fifty. Therefore, it seems to me altogether better that we should try this system. We know that it has been a subject of complaint for years and years that for the most trifling error as to valuation an entire invoice, sometimes amounting to half a million dollars, was subject to forfeiture. It does seem to me that the article about which any fraud has been committed should be the only article which should be tainted and confiscated. The bill proposes to do that and no more.

Mr. PRATT. Mr. President, I have listened with a great deal of interest to this discussion, and I think I begin to see some light on this question. It looks to me as if the amendment which my friend from Michigan proposes is a reasonable one, and I shall give it my hearty support for the reasons that I propose to submit to the Senate.

The case put by this section, Mr. President, is not a case, as the Senator from Vermont supposes, of innocent undervaluation, of a simple error upon the part of the importer or the consignee, or their agent. It is not for innocent errors of this kind that these penalties are denounced—fine and confiscation—but it is for deliberate attempts to defraud the Government by false invoices, by perjury, that these penalties are to fall. Now, sir, between the penalty and the crime as it stands in this section there is no sort of proportion. What is the crime denounced here? It is against those persons who, with intent to defraud the revenue, make or attempt to make an entry of imported merchandise. How? "By means of any fraudulent or false invoice, affidavit, letter or paper, or by means of any false statement, written or verbal." What, then, is the penalty for attempting to make this entry of an entire invoice? Why, the committee say, simply a fine, which may be one dollar or five thousand dollars, in the discretion of the judge, and the confiscation of the particular article that shall thus have been fraudulently undervalued. Now, sir, my position is that the undervaluation, deliberately and falsely, of a single article taints the whole invoice, and the whole invoice should be forfeited for that. There is no kind of logical proportion whatever between the penalty which is denounced here and the crime which is described. No, sir; let the law stand as it has stood. It will never be enforced in the case that the honorable Senator from Vermont supposes—where there has been simply an error by carelessness. No, sir; there must be deliberate fraud, there must be perjury, in order to call down upon the importer or the consignee the penalty denounced by this section; and I say it is no penalty at all to let him off with simply the forfeiture of the particular article which has been largely undervalued.

Mr. CONKLING. Mr. President, I shall vote for the amendment of the Senator from Michigan, and I wish in few words to state my reasons. In the main they have been assigned by other Senators. I see one objection to which no reference has been made.

We have heard to-day something about the demand for reform. There is such a demand; but neither I nor any other Senator will win lasting satisfaction by so voting as to multiply crimes which I think the Senator from Indiana [Mr. PRATT] has justly characterized.

There are three parties at whose interest we shall look if we legislate wisely and boldly on this subject. First, there is the Government, entitled to its revenues levied by law; second, there is the honest importer, who pays one hundred cents in the dollar for every impost laid upon him; and third, there are the pirates, the poachers, the smugglers, the dishonest undersellers, who take what has come to be known as a custom-house oath, "kissing their thumb when they swear," as a distinguished barrister used often to say, and by fraud manage to whip the devil around the stump and pay duties enough less than those imposed by law and paid by their neighbors to enable them to undersell honest merchants in the market. I will observe the oath under which I am, by voting absolute justice to all these parties, whatever the din or the clamor here or there may be.

In the present instance it is proposed to vitiate a venerable rule of law, a rule which my honorable friend from Vermont [Mr. MORRILL] misapprehended, when, according to the CONGRESSIONAL RECORD, he stated to the Senate some weeks ago that the law had always been that an invoice fraudulent was void only *pro tanto* and that an act which he procured to be passed *sub silentio* was intended only to declare a well-understood maxim of the law. The late Chief Justice of the United States in 1870 announced from the bench, having the authority of the whole Supreme Court, that the reverse was the law, that fraud vitiates the whole of a transaction if it vitiates it at all. If a paper be fraudulent it is void; not void in the line of the letter where the fraud resides, but void altogether because tainted with fraud, and the law hates fraud and will not tolerate it. Be it a bond, a mortgage, a note, an invoice, be it any instrument known to the law, if, as the Senator from Indiana says, perjury and fraud have entered into it, that black drop poisons it all, not an item merely. Now it is proposed to reverse this rule of law, and to say of an invoice that it shall be void only in so far as the particular words go in which the fraud is covered up.

The Senator from Michigan pointed us to some of the dangers. He might have gone further in his illustration. He took the case of a package of silks. Let me take the same illustration. A man importing silks or prints, a dozen packages of silk ostensibly alike, has in the midst of one or some of them vials of ottar of roses, diamonds, or laces. One need not be a merchant, as my honorable friend has been, to know that custom-house officers do not and cannot examine by the eye every box and every package or box, and the contents. On the contrary, they are compelled to sample this examination. If there are a dozen boxes they examine only one or two. But now says this provision to everybody, "Put your diamonds in the midst of your silks; put in ottar of roses; put in costly laces; if you are a bold gambler upon chances you can make immensely by so doing, and when you are caught," as the Senator from Indiana says, "you may be fined five dollars, or possibly five thousand, and you forfeit nothing but the particular article; and upon that article the duty is often more than the value of the article itself."

Mr. President, this would be somewhat extraordinary stopping here; the argument has been made before, however, and I will not dilate upon it. I rose to make another suggestion, and I commend it to the Senator from Michigan, living on the extreme frontier as he does and knowing as well as I do the force it should have. The amendment of the committee provides that only the item, mark it, in which the fraud occurs shall be forfeited. As to all importations from abroad—I will speak of the British provinces in a moment—inland transportation, boxing, commissions, and so on, are dutiable just as much as the fabric itself. Now a man imports an immense quantity of goods, as many as A. T. Stewart imports. He willfully omits from his invoice all commissions, all inland carriage and transportation, all boxing, all manner of charges applicable to the whole invoice alike, and you prove it as strong as proof from Holy Writ, is anything to be forfeited under this proposed section? Not a shilling; not a thread. Why? Because says this law you must carve out or put finger on the particular item in which the fraud exists, and forfeit that. Very well; all

these frauds do not relate to any particular item. Then what are you going to do? Take cattle and lumber from Canada. A man buys a drove of horses or a drove of cattle in the interior. When he goes to make his entry, he omits all these items, all inland transportation, everything which the law requires to be added to the first price; he leaves them out altogether, or states it at a nominal amount. You catch him and prove his fraud upon him. What is to be forfeited? Which horse in this drove does it apply to? Which item in these many million feet of lumber does it apply to? Not to any, as I understand it. And yet the Senator from Vermont says it is a great hardship to leave the law as it is now. I say, Mr. President, that it is not, and I want to be sure before taking my seat to correct one impression which has appeared repeatedly in this debate.

The Senator from Vermont argues as if a mere mistake, a mere technical error, a blunder no matter how inadvertent, as the law stands, justifies judge or jury in forfeiting an entire invoice. I say no law upon the statute-book justifies in such a case the forfeiture of a farthing, and if any man, lawyer or layman, will show me, I will thank him for the case, reported or unreported, brought to him even by tradition or hearsay, in which any judge of the United States has ever charged a jury or allowed a jury to suppose that they could find a verdict forfeiting an invoice for fraud unless they found as matter of fact, not that a technical omission or error had taken place, but that fraud, that fraud which appears in the statute in the word "knowingly," had in truth been committed.

I have heard a great deal of the dangers that men respectable and otherwise felt exposed to. I have heard strange romances on this subject. I have taken pains to learn especially in the case of Judge Blatchford, who has presided in more of these trials than any other single judge, and I am assured by the district attorney, by counsel on all sides of these controversies, that it has never been insisted seriously and certainly never tolerated in that court or any other of which my informants have information that a verdict was to be found under existing statutes, upon the theory that a fraud upon the revenue had been committed unless it was proved to the satisfaction of the jury that fraud—and I vse the word with its full implications—had in truth and in fact been committed; if there is any case, more especially any instance in the State of New York in which a verdict has ever been found in one of these cases against a man technically guilty only, or without fraud being found by the jury as matter of fact, I shall thank some Senator to furnish me that case. I undertake to say that no such thing can be found; the present bill makes this absolutely certain in future, and, therefore, as the Senator from Indiana well says, the question is in case of the man who commits one of the most injurious, one of the most prevalent, one of the most hurtful crimes known—I mean the crime of perjury—whether he shall know before and after he ventures upon the crime that the penalty if he is caught is one sufficient in dollars and cents to deter most men from the risk, or whether, on the contrary, all men shall be told in advance that a doctrine of chances is held out to them against which they can weigh the quantum of sin and make it matter of pecuniary speculation and profit?

I will vote for everything in this bill calculated to give a fair trial to modes of collecting the revenue without resort to moieties and without the seizure of papers and books of which so much has been said. But do not let us, while we are dispensing with these incentives and stimulants to a rigorous execution of the law, throw down the bars in respect of requirements of which no just claim of hardship can be made and which will be likely not only to imperil the end we have in view, but to disparage the better and more solid parts of this legislation?

Take moieties from the law, take away the power to inspect books and papers—these things are complained of by just men, and at these the pending bill is aimed. But beware how we unsettle the law generally in other respects in which its working is only for the punishment of the guilty, and for the safety of the public right.

Mr. MORRILL, of Vermont. It is due from me to the Senator from New York to say in relation to the bill reported by the Committee on Finance in regard to this particular subject, which made precisely the same change that is made here, that at the time I was directed to report it by the Committee on Finance I was informed by a member of the committee that Judge Clifford had made a decision that in case of undervaluation the only article that should be forfeited by the law was the special article that was undervalued. Since that I have learned that my informant was mistaken, but I understand from the Senator from Massachusetts, who has been recently charged with the office of Secretary of the Treasury, that the decisions of the different courts have not always been in harmony; that some have held to the entire forfeiture of the invoice and some to the forfeiture only of the undervalued article.

But, Mr. President, it seems to be argued by the Senator from New York that this case does not apply to mere undervaluation. Why in any case of undervaluation, no matter how small it may be, where fraud is actually imputed as being known to the importer at the time, the article is confiscated accordingly. Take an article of fine handkerchiefs or gloves that have expensive cartons in which they are placed. If merely the cartons are not put into the invoice there is a technical fraud and a fraud that amounts to sufficient to forfeit under existing laws the entire invoice.

Mr. CONKLING. Shall I interrupt my friend if I ask him a question?

Mr. MORRILL, of Vermont. No, sir.

Mr. CONKLING. Does not this section which we are dealing with put beyond all doubt the question which he now raises when it provides "that any owner, importer, consignee, agent, or other person who shall, with intent to defraud the revenue, make, or attempt to make any entry of imported merchandise, by means of any fraudulent or false invoice, affidavit, letter, or paper, or by means of any false statement," &c.—does not that put the case beyond all question upon the ground of willful, intentional fraud?

Mr. MORRILL, of Vermont. Undoubtedly; and the courts construe any undervaluation as a willful fraud. In the other portions of this bill we leave the smuggler to the existing laws, subject to all the pains and penalties imposed by them. Those laws will stand precisely as they are now. It is only proposed in this section to provide that there shall be a uniformity of decisions upon this question in cases of fraudulent undervaluation, that that shall only relate to and taint the particular article that is undervauled. I do not desire to consume further time.

Mr. BUCKINGHAM. Mr. President, it seems to many to be very unjust to inflict such a penalty upon what some regard as so slight a crime. It seems to many that it would be unjust to do anything more than to require of him who dishonestly imported his goods, who made a fraudulent invoice or attempted in any way to defraud the revenue, the forfeiture of the article which he invoiced below the cost. It is in my judgment a false sympathy with the man who attempts thus to defraud the revenue. I have no sympathy for the man who attempts such a fraud, and if in the face of it he should be called upon to forfeit ten times as much as the value of the article which he invoiced below its cost, if he knew it beforehand, I should be willing to have that penalty inflicted upon him provided he was guilty. If he would go forward in the face of such a threatened penalty and undertake to drive his neighbor out of a business which he was prosecuting fairly and in fair competition, then I say put the severest penalty upon him.

I have sympathy for the honest merchants; I have known many of them in the city of New York; and I do not hesitate to say that if you will go through that city to-day and inquire of those who have retired from the importing business and ask them the reason why they retired, you will find many of them to give you this answer: that they could not compete with a certain class of men who bring into the city the same descriptions of goods invoiced at less prices than they could buy them abroad; and in that way in their judgment willfully defrauding the revenue, and by that fraud driving them from their legitimate business. I say I have great sympathy for this class of men, and I would like to have Congress impose any penalty, however severe, upon men who should attempt dishonestly to drive them from their business.

Mr. SAULSBURY. The question I understand to be whether an attempt to defraud the revenue shall forfeit the whole amount of an invoice or forfeit only the particular article in which the fraud is alleged to exist. The section applies not only to the owner and the importer, but visits the act of every agent with the penalty prescribed in the section. How will it operate in case a merchant in New York, for instance, is in Europe purchasing goods, who sends them home to an agent here, who makes his affidavit at the custom-house, and who omits, willfully or by accident, to account for a single article. Is the honest merchant who is across the water attending to his business, for the single act of the agent, though it may have been a willful act of the agent—is the honest merchant who has no connection with that transaction to forfeit the whole of the goods imported? It seems to me we ought to be careful before we provide such penalties. It is true the agent who will willfully attempt to cheat and defraud the Government deserves the severest penalty himself; but is the honest man who by the act of his agent has been involved in this thing to be punished in that kind of way? It seems to me we ought to be exceedingly careful how we visit upon an honest merchant such severe penalties for the acts of his agent or consignee when he himself may be perfectly innocent. I call attention to that point.

The PRESIDING OFFICER, (Mr. OGLESBY.) The question is on the amendment proposed by the Senator from Michigan [Mr. CHANDLER] to the amendment of the Committee on Finance to the twelfth section.

Mr. CHANDLER. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. PRATT. On this question I am paired with the Senator from Missouri, [Mr. SCHURZ,] who was compelled to leave a short time since; if he were here he would vote "nay," and I should vote "yea."

The question being taken by yeas and nays, resulted—yeas 19, nays 33; as follows:

YEAS—Messrs. Boreman, Buckingham, Carpenter, Chandler, Conkling, Conover, Dorsey, Edmunds, Flanagan, Frelinghuysen, Hamilton of Texas, Hamlin, Harvey, Howe, Mitchell, Oglesby, Pease, Ramsey, and Spencer—19.

NAYS—Messrs. Alcorn, Bayard, Bogy, Boutwell, Cooper, Davis, Goldthwaite, Gordon, Hager, Hamilton of Maryland, Ingalls, Johnston, Kelly, Lewis, Logan, McCreery, Merrimon, Morrill of Vermont, Morton, Norwood, Ransom, Robertson, Sargent, Saulsbury, Sherman, Stevenson, Stockton, Thurman, Tipton, Wadleigh, Washburn, Windom, and Wright—33.

ABSENT—Messrs. Allison, Anthony, Brownlow, Cameron, Clayton, Cragin, Dennis, Fenton, Ferry of Connecticut, Ferry of Michigan, Gilbert, Hitchcock, Jones, Morrill of Maine, Patterson, Pratt, Schurz, Scott, Sprague, Stewart, and West—21.

So the amendment to the amendment was rejected.

The PRESIDING OFFICER. The question recurs on the amendment of the Committee on Finance.

Mr. CHANDLER. As it is decided that it is too harsh a punishment for the intentional smuggler to be mulcted in pecuniary damages, I would like to test the sense of the Senate and see whether they are too tender to punish him by imprisonment in the State prison for not exceeding five years. I therefore move in line 16, after the words "United States," to insert "and to imprisonment not exceeding five years."

The PRESIDING OFFICER. That is not an amendment to the amendment of the Committee on Finance.

Mr. CHANDLER. Then I give notice that when it shall be in order I shall offer the amendment and ask for the yeas and nays upon it, to see whether the smuggler is really to be punished at all.

Mr. BAYARD. I understand the amendment of the Senator from Michigan is not being pressed now.

The PRESIDING OFFICER. It is not an amendment to the amendment of the committee.

Mr. BAYARD. In line 21 of this section, after the words "for the" and before the word "confiscation," the words "forfeiture or" should be inserted; so as to read: "And anything contained in any act which provides for the forfeiture or confiscation of an entire invoice," &c. This amendment is acceptable to the chairman of the Committee on Finance in charge of the bill.

The PRESIDING OFFICER. That is properly an amendment to the amendment of the Committee on Finance. The question is on the amendment to the amendment.

Mr. BAYARD. It is in aid of the section, and the amendment is acceptable to the chairman.

The amendment to the amendment was agreed to.

Mr. CONKLING. Now the question I think is on the amendment.

The PRESIDING OFFICER. As amended.

Mr. CONKLING. I think I shall ask for the yeas and nays, and that in the hope that the Senate will not sustain it.

The yeas and nays were ordered.

Mr. CONKLING. I think the words which are proposed to be inserted had better be read.

The PRESIDING OFFICER. The amendment will be read.

The CHIEF CLERK. It is proposed in line 15 of section [10] 12 to strike out "as aforesaid;" and in lines 16, 17, and 18 to strike out—

Liable to forfeiture, which forfeiture shall apply only to the particular item of merchandise to which such fraud, or alleged fraud, relates.

And in lieu of these words to insert:

Forfeited; which forfeiture shall only apply to the particular item of merchandise to which such fraud, or alleged fraud, relates; and anything contained in any act which provides for the forfeiture or confiscation of an entire invoice in consequence of any item or items contained in the same being undervalued be, and the same is hereby, repealed.

Mr. PRATT. I am paired on this question with the Senator from Missouri, [Mr. SCHURZ.] If he were here he would vote "yea," and I should vote "nay."

The question being taken by yeas and nays, resulted—yeas 32, nays 13; as follows:

YEAS—Messrs. Alcorn, Bayard, Boutwell, Conover, Cooper, Davis, Ferry of Michigan, Gilbert, Goldthwaite, Gordon, Hager, Hamilton of Maryland, Johnston, Kelly, Lewis, McCreery, Merrimon, Morrill of Vermont, Norwood, Ransom, Sargent, Saulsbury, Sherman, Stevenson, Stockton, Thurman, Tipton, Wadleigh, Washburn, West, Windom, and Wright—32.

NAYS—Messrs. Buckingham, Carpenter, Chandler, Conkling, Flanagan, Frelinghuysen, Hamlin, Harvey, Howe, Mitchell, Pease, Ramsey, and Spencer—13.

ABSENT—Messrs. Allison, Anthony, Bogy, Boreman, Brownlow, Cameron, Clayton, Cragin, Dennis, Dorsey, Edmunds, Fenton, Ferry of Connecticut, Hamilton of Texas, Hitchcock, Ingalls, Jones, Logan, Morrill of Maine, Morton, Oglesby, Patterson, Pratt, Robertson, Schurz, Scott, Sprague, and Stewart—28.

So the amendment was agreed to.

The PRESIDENT *pro tempore*. The reading of the bill will proceed.

The Chief Clerk resumed the reading of the bill. The next amendment of the Committee on Finance was in section [11] 13, line 13, to insert after the words "satisfactory to the court" the words "or judge thereof."

Mr. BOUTWELL. I do not rise to object to the amendment proposed, but to give notice that when it is in order I shall move to strike out all after the word "fines," in the ninth line.

The PRESIDENT *pro tempore*. The question is on the amendment of the Committee on Finance last read.

The amendment was agreed to.

The next amendment was in section [12] 14, line 19, after the word "shall" to insert the words "in the absence of protest;" so that the section will read:

SEC. [12] 14. That wherever any statute requires that, to the cost or market value of any goods, wares, and merchandise imported into the United States, there shall be added to the invoice thereof, or, upon the entry of such goods, wares, and merchandise, charges for inland transportation, commissions, port duties, expenses of shipping, export duties, cost of packages, boxes, or other articles containing such goods, wares, and merchandise, or any other incidental expenses attending the packing, shipping, or exportation thereof from the country or place where purchased or manufactured, the omission, without intent thereby to defraud the revenue, to add and state the same on such invoice or entry shall not be cause of a forfeiture of such goods, wares, and merchandise, or of the value thereof; but in all cases where the same, or any part thereof, are omitted, it shall be the duty of the collector or appraiser to add the same, for the purposes of duty, to such invoice or entry, either in items or in gross, at such price or amount as he shall deem just and reasonable, (which price or amount shall, in the absence of protest, be conclusive,) and to impose and add thereto the further sum of 100 per cent. of the price or amount so added; which addition shall constitute a part of the dutiable value of such goods, wares, and merchandise, and shall be collectible as provided by law in respect to duties on imports.

The amendment was agreed to.

The next amendment was in section [13] 15, line 4, to insert after the word "the" the words "collector of the district, whose duty it shall be promptly to report the same to the;" so that section will read:

SEC. [13] 15. That it shall be the duty of any officer or person employed in the customs-revenue service of the United States, upon detection of any violation of the customs laws, forthwith to make complaint thereof to the collector of the district, whose duty it shall be promptly to report the same to the district attorney of the district in which such frauds shall be committed. Immediately upon the receipt of such complaint, if in his judgment it can be sustained, it shall be the duty of such district attorney to cause investigation into the facts to be made before a United States commissioner having jurisdiction thereof, and to initiate proper proceedings to recover the fines and penalties in the premises, and to prosecute the same with the utmost diligence to final judgment.

Mr. CONKLING. Before we vote upon the amendment to this section, I ask the chairman of the committee or some other member of it to tell us what it means.

Mr. BAYARD. The Senator in charge of this bill has necessarily been called from the Chamber, and the gentleman whom he desired to speak for him in his absence is also absent from his seat. The amendment I think explains itself.

Mr. CONKLING. I do not inquire as to the amendment, for I think so too, but I do not understand the section.

Mr. BAYARD. The section is as it came to us from the House.

Mr. CONKLING. I know it, but I cannot conceive what it means.

Mr. BAYARD. The object of the section it seems to me is very apparent and very obvious. It provides for the lodging of information, the lodging of complaint. The House proposed that the district attorney should be the person to whom this information should be carried. The Senate committee thought it proper that the collector of the district should be interposed, giving a point to which information of supposed violations of the customs laws should always be directed. Unless there be some official designated to whom information should be directed, it is quite possible that the person having information would not know precisely what channel his action should take. This directs him to the proper officer. The House thought it should be the district attorney. The Committee on Finance on consideration thought the collector of customs, who again should advise the district attorney, would be the proper officer to receive the information. There is nothing more in the section than that it provides for the point at which information shall be lodged in order to put the laws in force for the enforcement of the collection of the revenue. There is nothing else in the section that I can see, and nothing else in the section that I believe was suggested to the committee except that it seems very properly to subject the complain tto a canvass by the collector of the district, so that in trivial or frivolous cases in which no violation has really occurred, in which the informant is mistaken, there need be nothing further done in the matter. I do not see anything else in the section, but I can see in the section a very important and useful feature to make the law what we intended, practically beneficial.

Mr. CONKLING. In asking the question of the Senator from Delaware, I declared my inability to comprehend this section. It is due that I should explain my remark. The section, if I understand it, and I ask the attention of the lawyers of the Senate especially to it, requires any officer who detects a violation of the revenue laws to report it to the collector. It then requires the collector to report it to the district attorney, and provides that—

Immediately upon the receipt of said complaint, if in his judgment it can be sustained—

I do not stop to comment upon the fact that it is difficult to see how the district attorney, who has no subordinates for this purpose, is to ascertain whether it can be sustained—

it shall be the duty of such district attorney to cause investigation into the facts to be made before a United States commissioner having jurisdiction thereof.

I inquire who that United States commissioner is, where he lives, and how he spells his name? No United States commissioner has any civil jurisdiction. There is but one case that I can think of in which he has civil jurisdiction, and that is where the court makes a reference of some particular matter to a commissioner as a reference is made to a master or reference to inquire of some question and report. If any member of the body knows of any other case in which a United States commissioner has civil jurisdiction, of course he will correct me. I do not.

The jurisdiction of a commissioner is wholly criminal; and yet this section provides that all cases whatever of alleged fraud on the revenue are to be carried to the district attorney and he is to proceed before a commissioner; of course he may proceed in no other way. It will be observed that every one of these alleged violations of law must be inquired of by a "proceeding." What proceeding? I ask the Senator from Delaware what is this proceeding? What is the form of the proceeding? Is some one to be arrested? My friend from Michigan [Mr. CHANDLER] says a "proper proceeding." Yes, he is "to initiate proper proceedings." I inquire what proceeding would be proper or even possible in any civil case?

Mr. BAYARD. It depends upon the statute that the district attorney supposes has been infringed. He has a right to apply to a commis-

sioner to have the party held to bail; and that is an every-day occurrence.

Mr. CONKLING. Shall I understand my friend then to mean that this provision extends only to criminal cases?

Mr. BAYARD. It can only apply to cases in which a commissioner has jurisdiction.

Mr. CONKLING. Precisely; and that is the point of my objection. I venture to say with deference to the committee and with the more freedom as this section came from the House and not from the commiteee, that it provides absolutely nothing to be done in a very large portion of all the instances of fraud. Unless you give the commissioner jurisdiction *in rem*, it is idle to talk about proceeding at all in a large proportion of the cases. I grant that where there is some one who can be arrested, and if the district attorney knows that in the first instance, he can proceed. This can be in only one way. He may arrest a culprit for smuggling, as he might for counterfeiting or for any other offense, and, as the Senator says, he could be held to bail or bound over, and the criminal action proceeds; but the Senator is aware that these proceedings, I might say in a great majority of instances, are civil in their character. They are proceedings *in rem* and other proceedings civil in their nature, and of none of these has the commissioner any jurisdiction whatever; and yet the provision is that it shall be the duty of the district attorney to proceed only in a way which in many cases is no way at all.

Mr. BAYARD. There is no lack of criminal penalties or punishments for every offense against the revenue laws. There can scarcely be one imagined that there is not a punishment by fine and imprisonment. Now, in lieu of the system of paying money and getting out of these offenses by the mere payment of money, which passes to informers, it is proposed—and this I suppose is a feature of the bill in harmony with that proposed action—that there shall be no condonation of criminal offenses, but prosecution of criminal offenses. I can see in this section nothing that does not lead to the more thorough prosecution of offenders, subject to the proper judgment of the district attorney and the collector that a case has arisen in which a prosecution should be set on foot. That is all. Whether or not the civil suit can take this shape, is a matter of no particular importance, because there are plenty of other avenues for that. If this shall provide for criminal prosecutions even, it will be useful; and to say that it cannot provide for other than criminal prosecutions is not saying anything against it. If the section shall provide for the prompt prosecution upon the criminal side of violations of the revenue laws, it certainly should be retained. I see no objection to it. That the collector is the proper person to receive this first information, instead of the district attorney, I think is a very proper amendment on the part of the Committee on Finance.

I do not consider the section of any very great value, because I apprehend the information would be lodged and the prosecution would go on. This simply provides that it shall be lodged with a certain officer who shall proceed in a certain way. If it be incompatible with the former law giving jurisdiction to commissioners, it will not be done, because the section provides for proper proceedings to be initiated. I take it that means proper proceedings both civil and criminal, civil proceedings in the proper form and criminal proceedings in the usual and proper way. I see no objection, therefore, to the section. It may not be as full and complete as it might be; but so far as it goes, it goes in the right direction.

There was in the hands of the chairman of the committee a paper properly belonging to him which came from the Treasury Department containing some comments upon this bill after it had been printed by the Senate, and the comment from the Department on this section 13 I will read:

Section 13 is unnecessary, and its operation would probably be injurious. It is now the duty of subordinate officers to report every infraction of law discovered by them to their superiors, and it is thereupon the duty of the latter to take such further steps as may be necessary to protect the interests of the United States.

The rights of subordinate officers as informers, and the consequent inducement to vigilance, are not improved by the section in question.

The only good effect which might possibly result from the section, if retained, would be to prevent the superior officer from suppressing the case, by which he might become subject to the penalty in section [17] 15. If this contingent danger be of sufficient magnitude to justify the ignoring of the officer who is chiefly responsible for the administration of the customs-revenue law in his district, then the section should be retained, but it might be modified by requiring the subordinate to make duplicate reports, one to the district attorney and the other to the collector.

That suggestion was taken by making the report first to the collector and making it his duty to report over again to the district attorney. I did not then, and I do not now, consider the section of any great importance. I think it is more practical as it is now than when it came from the Committee on Finance. I see no objection to it but rather recommendation, in that it provides for the point at which official information shall be received and then the duties of these parties commence. If the description of the proceedings is technically insufficient, still I do not think it would oust the proper jurisdiction when the district attorney should apply to it. If the section shall be, under the criticism of the Senator from New York, restrained simply to criminal or quasi criminal cases, still the proper proceedings which are mentioned in the eleventh line of the section will be instituted in the proper forum for the punishment of the offense and the mulcting of the offender.

Mr. BOUTWELL. It seems to me that this section does not add anything to the value of the revenue system and in some degree tends to confuse and make doubtful what is now clear. It is the duty of every officer to report to his superior officer. It might happen that a report to be made by any officer could not properly be made to the collector of any port, but should be made directly to the Department. Now it is the duty of the district attorney when a case is laid before him, upon his judgment, to prosecute both on the civil and the criminal side; and that is all that is provided for in this section.

I suppose it is not in order now to move to strike out the section, but I certainly think it ought to be omitted from the bill.

Mr. SHERMAN. The purpose of this section in the House of Representatives, as shown by the debate, was to cut off the condonation or settlement of cases of penalties by subordinate officers.

Mr. BOUTWELL. Has anybody the evidence of a single instance of that sort ever occurring in the administration of the revenue laws? Is there any such case anywhere?

Mr. SHERMAN. I cannot give particular cases.

Mr. BOUTWELL. There is no such case.

Mr. SHERMAN. I know the purpose of the House was to prevent collectors of customs from condoning cases of violation of law.

Mr. BOUTWELL. That would be an offense. It has never been proved. Within my knowledge there has never been any evidence tending to show that any collector of customs has ever settled a case.

Mr. SHERMAN. That purpose is manifest on the face of this section. The House of Representatives therefore made it the imperative duty of every officer who ascertained that the revenue laws had been violated in any particular to report directly to the district attorney, and then made it imperative on the district attorney to take the requisite proper proceedings to enforce the penalty or punish the crime. We saw that that ignored the collector, who is chiefly responsible for the collection of the revenue, and therefore when the Secretary of the Treasury pointed out to us that this apparently relieved the officer who detected frauds from reporting to the collector who was responsible for the collection of the revenue, and required him to report directly to the district attorney, we saw that was objectionable.

Mr. BOUTWELL. I do not object to the amendment. If the section stands, the amendment is pertinent and proper; but I think the whole section should be omitted.

Mr. SHERMAN. That may be; but I doubt very much whether the section ought not to stand. The purpose is that, when an offense is committed, punishment shall be sure and certain, and that the case shall be placed in the hands of the legal officers. I can imagine many cases of the violation of the revenue laws where it may be proper for the Secretary of the Treasury to relieve from the penalty. If this would prevent the Secretary of the Treasury or some proper officer from relieving from penalties in certain cases, I should concede that the section ought to be stricken out; but the purpose was to prevent the collector condoning these offenses, and therefore the section as it was framed skipped over the collector and made the special agent or any other revenue officer bound to report directly to the district attorney. We thought that was wrong, and hence have proposed the amendment.

Mr. BOUTWELL. That was wrong undoubtedly; but the error I think is in supposing that cases are condoned or settled by the local officers. So far as I know such has not been the practice. Now, as to the prosecution of persons who violate the revenue laws, I think during my own experience we had an examination made of the dockets in the city of New York, and we found there—I state it from recollection—two thousand Government cases, civil and criminal, on the dockets of the United States courts in the city of New York, and the officers of the Government utterly unable to try them for the want of judicial facilities for doing the business.

THE CURRENCY—FREE BANKING.

Mr. MORTON. Mr. President, on behalf of the committee of conference on the currency bill I beg leave to submit a report, and ask to have it printed, and I give notice that to-morrow at the expiration of the morning hour I will ask the Senate to proceed to its consideration.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) Does the Senator desire to have the report read?

Mr. BOREMAN and others. Let it be read.

The Chief Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1572) to amend the several acts providing a national currency and to establish free banking, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House recede from their disagreement to the amendment of the Senate, and agree to the same, with an amendment, as follows:

Strike out all of the amendment after "that," in the first line, and insert in lieu thereof the following:

The act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, shall be hereafter known as "the national-bank act."

SEC. 2. That section 31 of "the national-bank act" be so amended that the several associations therein provided for shall not hereafter be required to keep on hand any amount of money whatever by reason of the amount of their respective circulations; but the moneys required by said section to be kept at all times on hand shall be determined by the amount of deposits in all respects, as provided for in the said section.

SEC. 3. That section 22 of the said act, and the several amendments thereto, so far as they restrict the amount of notes for circulation under said acts, be, and the same are hereby, repealed; and the proviso in the first section of the act approved

July 12, 1870, entitled "An act to provide for the redemption of the 3 per cent. temporary-loan certificates, and for an increase of national-bank notes," prohibiting the banks hereafter organized a circulation over $500,000; and the proviso in the third section of said act limiting the circulation of banks authorized to issue notes redeemable in gold coin to $1,000,000; and section 6 of said act relating to the redistribution of twenty-five millions of circulating notes be, and the same are hereby, repealed; that every association hereafter organized shall be subject to, and be governed by, the rules, restrictions, and limitations, and possess the rights, privileges, and franchises, now or hereafter to be prescribed by law as to national banking associations, with the same power to amend, alter, and repeal provided by "the national-bank act."

SEC. 4. That every association organized, or to be organized, under the provisions of the said act, and of the several acts amendatory thereof, shall at all times keep and have on deposit in the Treasury of the United States, in lawful money of the United States, a sum equal to 5 per cent. of its circulation, to be held and used for the redemption of such circulation; which sum shall be counted as a part of its lawful reserve, as provided in section 2 of this act; and when the circulating notes of any such associations, assorted or unassorted, shall be presented for redemption, in sums of $1,000, or any multiple thereof, to the Treasurer of the United States, the same shall be redeemed in United States notes. All notes so redeemed shall be charged by the Treasurer of the United States to the respective associations issuing the same, and he shall notify them severally, on the first day of each month, or oftener, at his discretion, of the amount of such redemptions; and whenever such redemptions for any association shall amount to the sum of $500, such association so notified shall forthwith deposit with the Treasurer of the United States a sum in United States notes equal to the amount of its circulating notes so redeemed. And all notes of national-banks worn, defaced, mutilated, or otherwise unfit for circulation shall, when received by any assistant treasurer or at any designated depository of the United States, be forwarded to the Treasurer of the United States for redemption as provided herein. And when such redemptions have been so reimbursed, the circulating notes so redeemed shall be forwarded to the respective associations by which they were issued; but if any of such notes are worn, mutilated, defaced, or rendered otherwise unfit for use, they shall be forwarded to the Comptroller of the Currency and destroyed and replaced as now provided by law: *Provided*, That each of said associations shall reimburse to the Treasury the charges for transportation, and the costs for assorting such notes; and the associations hereafter organized shall also severally reimburse to the Treasury the cost of engraving such plates as shall be ordered by each association respectively; and the amount assessed upon each association shall be in proportion to the circulation redeemed, and be charged to the fund on deposit with the Treasurer: *And provided further*, That so much of section 32 of said national-bank act requiring or permitting the redemption of its circulating notes elsewhere than at its own counter, except as provided for in this section, is hereby repealed.

SEC. 5. That any association organized under this act, or any of the acts of which this is an amendment, desiring to withdraw its circulating notes, in whole or in part, may, upon the deposit of lawful money with the Treasurer of the United States in sums of not less than $9,000, take up the bonds which said association has on deposit with the Treasurer for the security of such circulating notes; which bonds shall be assigned to the bank in the manner specified in the nineteenth section of the national-bank act; and the outstanding notes of said association, to an amount equal to the legal-tender notes deposited, shall be redeemed at the Treasury of the United States, and destroyed as now provided by law: *Provided*, That the amount of the bonds on deposit for circulation shall not be reduced below $50,000.

SEC. 6. That the Comptroller of the Currency shall, under such rules and regulations as the Secretary of the Treasury may prescribe, cause the charter numbers of the association to be printed upon all national-bank notes which may be hereafter issued by him.

SEC. 7. That the entire amount of United States notes outstanding and in circulation at any one time shall not exceed the sum of $382,000,000, which shall be retired and reduced in the following manner only, to wit: within thirty days after circulating notes to the amount of $1,000,000 shall, from time to time, be issued to national banking associations under this act, in excess of the highest outstanding value thereof at any time prior to such issue, it shall be the duty of the Secretary of the Treasury to retire an amount of United States notes equal to three-eighths of the circulating notes so issued, which shall be in reduction of the maximum amount of $382,000,000 fixed by this section; and such reduction shall continue until the maximum amount of United States notes outstanding shall be $300,000,000; and the United States notes so retired shall be canceled and carried to the account of the sinking fund provided for by the second clause of section 5 of the act approved on the 25th of February, 1862, entitled "An act to authorize the issue of United States notes, and for the redemption and funding thereof, and for funding the floating debt of the United States," and shall constitute a portion of said sinking fund. And the interest thereon computed at the rate of 5 per cent. shall be added annually to said sinking fund. But if the surplus revenue be not sufficient for this purpose, the Secretary of the Treasury is hereby authorized to issue and sell at public sale, after ten days notice of the time and place of sale, a sufficient amount of the bonds of the United States of the character and description prescribed in this act for United States notes to be then retired and canceled.

SEC. 8. That on and after the 1st day of January, 1878, any holder of United States notes to the amount of fifty dollars, or any multiple thereof, may present them for payment at the office of the Treasurer of the United States, or at the office of the assistant-treasurer at the city of New York; and thereupon he shall be entitled to receive, at his option, from the Secretary of the Treasury, who is authorized and required to issue in exchange for said notes an equal amount of either class of the coupon or registered bonds of the United States provided for in the first section of the act approved on the 14th of July, 1870, entitled "An act to authorize the refunding of the national debt," and the act amendatory thereof, approved the 20th day of January, 4871, which bonds shall continue to be exempt from taxation as provided in said act: *Provided, however*, That the Secretary of the Treasury in lieu of such bonds may redeem said notes in the gold coin of the United States. And the Secretary of the Treasury shall reissue the United States notes so received either in exchange for coin at par, or, with the consent of the holder, in the redemption of bonds then redeemable at par, or in the purchase of bonds at not less than par, or to meet the current payments for the public service; and when used to meet current payments an equal amount of the gold in the Treasury shall be applied in redemption of the bonds known as five-twenty bonds.

SEC. 9. That nothing in this act shall be construed to authorize any increase of the principal of the public debt of the United States.

And the Senate agree to the same.

O. P. MORTON,
JOHN SHERMAN,
A. S. MERRIMON,
Managers on the part of the Senate.
HORACE MAYNARD,
C. B. FARWELL,
Managers on the part of the House.

Mr. CAMERON. This is a very important question; certainly the most important to the country we have had during this session; perhaps more important in all its consequences than we shall have for years; and in order that we may have time to think about it, and clearly understand it, I move that the Senate now proceed to the consideration of executive business.

Mr. THURMAN. The report ought to be printed and laid over.

Mr. MORTON. That was my motion.

The PRESIDENT *pro tempore*. That order was entered.

Mr. SHERMAN. I hope we shall go on with and finish the moiety bill.

Mr. CAMERON. I think we had better not.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Pennsylvania.

Mr. SHERMAN. I object to the motion. I hope the moiety bill will be finished to-night. I say to the friends of the bill, those who believe it is important to pass it, that, in the crowded state of business at this stage of the session, there is no other opportunity to press it. To-morrow it will be crowded out by a special order made by unanimous consent and by the report just made. I therefore ask for the yeas and nays on this motion.

The yeas and nays were ordered.

Mr. CAMERON. I am not to be scared by calling the yeas and nays.

The PRESIDENT *pro tempore*. The motion is not debatable.

Mr. CAMERON. I think this is so important a question that we ought to have a little time to think about it. I do not want any other question to come up in here now until the conference report is disposed of.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania moves that the Senate proceed to the consideration of executive business, upon which motion the yeas and nays have been ordered.

Mr. SHERMAN. Let the call for the yeas and nays be regarded as withdrawn and have a division.

The PRESIDENT *pro tempore*. The Chair hears no objection to that suggestion, and the Senate will divide on the motion.

The question being put, there were on a division—ayes 12, noes 32.

So the motion was not agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the bill (S. No. 881) fixing the times of holding the circuit court of the United States in the districts of California, Oregon, and Nevada.

The message also returned, agreeably to the request of the Senate, the bill (H. R. No. 3652) providing for publication of the revised statutes of the United States.

E. BOYD PENDLETON.

Mr. BOREMAN. There was an adverse report made this morning on the bill (S. No. 653) for the relief of E. Boyd Pendleton, late collector of internal revenue fifth district of Virginia, and the bill was indefinitely postponed. I did not notice it at the time. I move that the vote indefinitely postponing the bill be reconsidered and that the bill be placed upon the Calendar.

The motion was agreed to.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, transmitting, in pursuance of law, reports of the surveyor-general of New Mexico on private land claim in Mesilla colony grant, reported as No. 86, for land in Doña Aña County, New Mexico; on private land claim reported as No. 89, in the name of Manuel Trujillo, for land in Santa Fé County, New Mexico, known as the Talaya tract; and report on Refugio colony grant, being private land claim reported as No. 90, for land in Doña Aña County, New Mexico; which was referred to the Committee on Private Land Claims, and ordered to be printed.

REVISED STATUTES.

The PRESIDENT *pro tempore* laid before the Senate the bill (H. R. No. 3652) providing for the publication of the revised statutes of the United States, which was returned from the House of Representatives in accordance with the request of the Senate.

The vote on the passage of the bill was reconsidered, and it was referred to the Committee on the Judiciary.

FOG-BELLS AND OTHER SIGNALS.

Mr. HAMLIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be directed to inquire into the expediency of making an appropriation to enable the Light-House Board to continue its experiments in relation to fog-bells or other signals for the protection of the commercial marine.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 3623) to amend the twenty-third paragraph of section 3 of the act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February 26, 1853;

A bill (H. R. No. 3622) to amend the act to establish the judicial courts of the United States, approved September 24, 1789, in relation to bonds of clerks of the courts of the United States; and

A bill (H. R. No. 3621) to abolish the western district of Arkansas, and for other purposes.

AMENDMENTS TO BILLS.

Mr. CONOVER submitted an amendment intended to be proposed by him to the bill (H. R. No 3572) to amend existing customs and internal-revenue laws, and for other purposes; which was referred to the Committee on Finance, and ordered to be printed.

The proposed amendment is a follows:

That all sales of stocks, bonds, gold or silver bullion or coin, whether the same be made by the owner thereof or by any bank, banker, broker, or other persons, or by a corporation as agent for such owner, shall be taxed one-twentieth of 1 per cent. on the amount of such sale.

And on all contracts made by any of the persons aforesaid, or by any corporation, for the sale of any stocks, bonds, gold or silver bullion or coin, on which the full amount of purchase-money is not paid or to be paid in fact, or where such gold or silver bullion or coin, stocks, or bonds are deposited as security for the purchase-money, or where a settlement of the contract is made without an actual payment of the purchase-money and a delivery of the gold or silver bullion or coin, stocks or bonds, or where the gold or silver coin or bullion, stocks or bonds, contracted to be sold are not at the time *bona fide* the property of the seller and actually on hand at the time, there shall be paid a tax of one-tenth of 1 per cent. on the amount of such sale. And upon all contracts made by any person for himself or as agent for another for the sale of raw or unmanufactured cotton not *bona fide* the property of the seller and actually on hand at the time, there shall be paid a tax of one-tenth of 1 per cent on the amount of such contract. And at the time of the making of all sales on contracts of sale herein provided to be taxed there shall be made and delivered to the buyer by the seller or his agent a written or printed memorandum, signed by the seller or his agent, setting forth the name of the seller or contractor or that of his agent, the amount of the sale or contract, the matter or thing to which it relates, and the date thereof, and there shall be affixed thereto a lawful stamp or stamps, equal in value to the amount of the tax on such sale or contract; and in computing the amount in any case herein provided for any fractional part of $100 of value or amount on which the tax is computed shall be accounted at $100.

And any person liable to pay the taxes herein provided, or any one who acts in the matter as agent for such person, who shall make any such sale or contract, or who shall in pursuance of any such sale or contract deliver or receive any bullion, coin, stocks, or bonds, or cotton, without a memorandum such as is herein required to be made, or who shall deliver or receive such memorandum without having the proper stamps affixed thereto, shall forfeit and pay to the United States ten times the amount of the tax lawfully due and payable on such sale or contract, which may be recovered by suit with costs at any time within one year after the liability to such penalty shall have been incurred, and the provisions of the laws in relation to stamp duties on bank-checks or orders for the payment of money drawn on banks, bankers, or trust companies, except as to the amount of the stamp tax to be paid thereon, which are now in force shall apply to and govern the execution of the foregoing provisions for payment by stamps of the taxes herein imposed on such sales and contracts of sale of gold or silver bullion, coin, bonds, and cotton.

Mr. LOGAN, from the Committee on Military Affairs, submitted an amendment intended to be proposed to the bill (H. R. No. 3600) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1875, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. JOHNSTON, from the Committee on the District of Columbia, submitted amendments intended to be proposed to the bill (H. R. No. 3600) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1875, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

HOUSE BILLS REFERRED.

The bill (H. R. No. 435) to enable the people of Colorado to form a constitution and State government, and for the admission of the said State into the Union on an equal footing with the original States, was read twice by its title, and referred to the Committee on Territories.

The following bills were severally read twice by their titles, and referred to the Committee on the Judiciary:

A bill (H. R. No. 3623) to amend the twenty-third paragraph of section 3 of the act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes, approved February 26, 1853;

A bill (H. R. No. 3622) to amend the act to establish the judicial courts of the United States, approved September 24, 1789, in relation to bonds of clerks of the courts of the United States; and

A bill (H. R. No. 3621) to abolish the western district of Arkansas, and for other purposes.

MOIETIES UNDER THE CUSTOMS LAWS.

The PRESIDENT *pro tempore*. The bill (H. R. No. 3171) to amend the customs-revenue laws and to repeal moieties is before the Senate as in Committee of the Whole. The amendment of the Committee on Finance to section [13] 15 will be read.

The CHIEF CLERK. The amendment of the Committee on Finance is to insert after the words "complaint thereof to the" the words "collector of the district, whose duty it shall be promptly to report the same to the."

Mr. EDMUNDS. I was entirely convinced by what the Senator from Massachusetts said and from some little knowledge of my own about the practice under these laws, that this ought not to be agreed to, because, as the Senator from Massachusetts has said, there are a great many of these reports that are not made directly to the district attorney or to the collector. Some of them ought to be made to the Treasury Department direct. I think, though I do not know whether the Senator from Massachusetts said that or not, that this whole section ought to be stricken out and the law in this respect left exactly as it is now. This particular section does not have anything to do with moieties in particular, and does not prevent people from doing exactly what they could do before either way, either to smuggle or to import goods according to law as might be most convenient. I think if you adopt this section it will pretty seriously interfere with the well-ordered and established methods of proceeding in ascertaining frauds upon the revenue that now exist. If the object be to upset the law altogether, and to provide an entirely new code so that nobody will know what to do or how to do it as it has been done before, so as to add to the general uncertainty or whatever you may call the rest of the bill, the section is right.

I do not wish to take up the time of the Senate when it has more important subjects under consideration; but as the Senator has just resolved to force us to consider this bill in heat rather than to do executive business and go home to dinner, we ought to consider it fully; and I was merely wishing to say in a single word that this fifteenth section, or thirteenth as it stands in the brackets, does not seem to be necessary to the symmetry of the rest of the bill, and it puts the operations of the Government in respects which have not hitherto been criticised, as the Senator from Massachusetts has stated, entirely out of joint. I cannot suppose, of course, that the Committee on Finance, in their just zeal and endeavor to protect the revenue and to protect importers and so on, have desired to interfere with the processes of the law in carrying out whatever the law may happen to be, and in the reports that are to be made in respect to frauds committed upon the revenue; and in that point of view I merely wished to say that it appeared to me that the whole section ought to be stricken out.

Mr. MORRILL, of Vermont. I desire to say that the theory is that having somewhat reduced the amount of penalties and forfeitures in case of frauds, wherever there be one, it is the purpose that it shall be, without any restriction or limitation whatever, prosecuted and proceeded with to the end. It was designed that the law, such as it is, should be in all cases enforced.

Mr. EDMUNDS. It is very inconsequential then.

The PRESIDENT *pro tempore*. The question is on the amendment of the Committee on Finance.

The amendment was agreed to.

The Chief Clerk continued the reading of the bill. The next amendment of the Committee on Finance was in section [14] 16, in line 8, after the word "shall" to insert the word "have" and in the same line, after the word "joined," to strike out the words—

It shall be the duty of the court on the trial thereof to submit to the jury, as a distinct and separate proposition, whether the alleged acts were done with an actual intention to defraud the United States, and to require upon such proposition a special finding by such jury; or, if such issues be tried by the court without a jury, it shall be the duty of the court to pass upon and decide such proposition as a distinct and separate finding of fact; and in such cases, unless intent to defraud shall be so found, no fine, penalty, or forfeiture shall be imposed.

And to insert at the end of the section the words:

The court may, on its own motion, and shall, when requested so to do by either party, submit to the jury as a distinct and separate proposition, whether or not the alleged acts were done with an actual intention to defraud the United States, or may submit any other specific interrogatory material to a determination of the issue or issues joined, and require special findings thereon by the jury; or if such issues be tried by the court without a jury, it shall be the duty of the court, when requested so to do by either party, to find the facts, and enter the same as a part of the record.

So that the section will read:

SEC. [14] 16. That in all actions, suits, and proceedings in any court of the United States now pending or hereafter commenced or prosecuted to enforce or declare the forfeiture of any goods, wares, or merchandise; or to recover the value thereof, or any other sum alleged to be forfeited by reason of any violation of the provisions of the customs-revenue laws, or any of such provisions, in which action, suit, or proceeding an issue or issues of fact shall have been joined, the court may on its own motion, &c.

Mr. CARPENTER, (Mr. FERRY, of Michigan, in the chair.) It seems to me, with due submission to the committee, that that amendment would have the effect to acquit most of the persons who shall be charged with this offense. Every lawyer who has practiced at all in defending criminals understands that in a trial for murder, for instance, if he can get the court to put the direct and distinct question to the jury whether this man really killed the deceased from malice prepense or not, very likely some man on the jury who is perfectly willing to say he killed him and meant to kill him will doubt whether he meant to do it with malice prepense. In other words, it is the old dodge of all lawyers who defend criminals to separate the charge into as many elements as possible and confuse the jury as much as possible in order to prevent a conviction. This, like every other case where a man is charged with fraud, rests on all the circumstances. If you are to single out and put this particular question, which of course is the essence of the whole case, as a separate and distinct question and to require a special finding upon that, you will acquit three-fourths of the persons who are tried and who ought to be convicted.

Mr. STOCKTON. Mr. President, in old times there was no crime without an intent. Such was the law of reason, and it was the law of England. It has been altered in this country and altered mainly by decisions of United States courts, so that intent is inferred under circumstances where it ought not to be inferred and where the jury are tempted to err. Therefore it seems to me, to take the case the Senator from Wisconsin has put, that if in a trial for murder there is one single man on the jury who does not believe that the intent to kill with malice existed at the time of the killing, the party charged should not be found guilty of murder. In old times the questions

were so put to the jury, and the jury were told by the court in their charge what murder was as defined by the law, and that murder could not exist without the full definition being filled, and the jury were told that they could not, under their oaths, find the man charged guilty, he having the right to the benefit of the doubt, unless they believed the whole definition of the crime to be filled. The highest penalty known to the law, the exaction of death itself, was given to a court and a jury under such circumstances, and never would have been trusted to them under any other circumstances.

But now by statutes which have been made, beginning mainly with the war, step by step men are lured into crimes which they never intended to commit, and the courts so tell the juries. One of the very best features of this movement, one of the very best features in this bill, in my judgment, is that men are not to be held guilty, their property sacrificed, their reputations ruined, under constructive frauds, when really there was no intent to violate the law of the land. Look at the internal-revenue cases; look at the forfeitures of distilleries, of tobacco manufactories; look at the humble men engaged in the small business of making clothes. Cases have occurred in my State where a man was keeping his account in a humble way, not being a book-keeper, and if his books were not kept according to rules and regulations too difficult, sir, for me or you to understand who have not been bred book-keepers, if his books were not kept exactly according to Gunter, if they were not precisely as was required by numerous specifications of the law and regulations, that man before a court and jury in the United States court stood no chance whatever; his property was confiscated, every dollar he had was taken away from him, and his reputation to boot; and then what was left for the lawyers but to come under these laws and beg for such clemency as was left in the hands of the Secretary of the Treasury or the Commissioner of Internal Revenue? This has occurred in my own State in reference to the very act now attempted to be amended, and in the courts of New York it has been a standing disgrace to the nation.

It is not only in reference to this bill, in which my constituents feel a great interest, that I speak, but it is in reference to this great evil that has grown up in the country. The evil is not in my humble judgment where the Senator from Wisconsin thinks it is. The danger is not under these constructive acts which are created by our statutes and which are sent to the United States courts. It is not that the criminal will escape. Many and many an innocent man has been ruined in reputation, as well as all his property taken, under these statutes who had no intent whatever to commit a crime. These acts are snares and delusions, and the American people are awakening to the fact. They believe in the old doctrine that crime cannot exist without an intent; and the stronger and the closer we keep to that definition, the more we insist upon it, the freer our Government will be.

The object of all statutes of this kind is to collect the revenue and punish the criminal. One man is more careful than another; one man is more precise in his business matters than another. To urge him to precision, to make him careful, may be the duty of the Government; but because he has ignored it or because his clerk has ignored it by carelessness, where from the exhibition of his whole accounts and all his papers he can show that there was no criminal intent on his part, to mulct him in fines and penalties, to ruin his reputation, to deny him the power to go before a jury of his peers and ask them to say whether he intended to do this or not, is to deprive him in my humble judgment of one of the dearest rights of any American citizen.

Mr. CARPENTER. Mr. President, I entirely concur with my honorable friend from New Jersey in his definition of offenses. There must of course be an intention to do wrong in order to constitute a crime. That is not what I am talking about. I make no objection to a counsel who is retained for the defendant putting that point just as forcibly and speciously as he pleases; but the idea of putting into a statute which is intended to punish crime what is in and of itself one of the most usual and most effective devices of defendant's counsel, is a thing that strikes me as somewhat remarkable.

There is but one of two courses to be taken. If it is proposed to leave the honorable and high-minded people of the United States to pay their taxes and their duties on imported articles or not as they please, or, what is the same thing, leave it to their sense of honor in the matter, that is one thing. If, on the other hand, it is designed to collect the revenue, to see when the law fixes a duty that it is paid, when the law fixes a tax on whisky or tobacco that the Treasury shall receive it, then you must provide machinery to squeeze it out of the reluctant payer; and this provision instead of being machinery to accomplish that purpose is a very cunning device, it seems to me, to defeat that end.

For instance, these men, say in New York City, are to be tried before their neighbors and friends. They are wealthy. There are on the jury several men who associate with them in daily life. Such jurors will find a general verdict when all the facts in the case are established. If you prove, for instance, that Mr. John Smith, a very wealthy importer in New York, has done thus and so, has really done the things which the court will say amount to an offense, that jury will be very likely to convict; but if the judge is to take them and press them up to the other point, "Do you find that in doing these things this man actually intended to cheat and defraud the United States," do you think as many juries would find verdicts of guilty?

My objection to this amendment is that it seems to be a specious, cunning defense of the action you are directing to be prosecuted. A lawyer who should invent such a defense would be entitled to the thanks of his client; but I think such a provision is out of place in a statute designed to secure convictions.

I think the committee were entirely right in one-half of the amendment. They were right in striking out the provision of the House bill, under which I do not believe you could convict anybody. The amendment proposed by the committee of the Senate is better, because I think under it you might convict three-fourths of the persons that ought to be convicted.

Mr. THURMAN. O, no.

Mr. EDMUNDS. You could not convict one-fourth of them.

Mr. CARPENTER. Then it is worse than I thought it was. At all events it is bad enough.

Mr. THURMAN. The vice of this amendment as it seems to me consists in the insertion of the word "actual." You must find "an actual intention to defraud the United States." The effect of that would be to repeal that well-known maxim of the law that every man is presumed to know the law. A man would say: "It is very true I exhibited an invoice that was incorrect; I violated the law of the United States; but I did not know that that was the law of the United States; and therefore I never intended to defraud the United States." The law presumes that a man who does an unlawful act does it with an unlawful purpose. There are cases in which that may be rebutted, of course; but to require actual intent in every case is simply to say that the old maxim of the law that every man is presumed to know the law shall not obtain in these cases. That seems to me to be the vice of the amendment, and I think the word "actual" ought to be stricken out.

Then there is something more about this amendment which I do not understand, and upon which I should like to have a little light. As the text was in the bill as it came from the House, in the provision for these findings there was some effect given to the findings, for it was provided:

> And in such cases, unless intent to defraud shall be so found, no fine, penalty, or forfeiture shall be imposed.

That gave effect to the want of a finding of an actual intent. It was a complete defense. Now, our committee provide for the same kind of finding, but do not provide to give it any effect. They do not say that the absence of such a finding, or a finding that there was no such intention, shall operate as an acquittal. They simply say it shall be found and put on record. *Cui bono?* For what purpose is it to be put on record? There is to be a separate finding. The jury find the man guilty, and at the same time they find that he did not have an actual intent to defraud the Government of the United States, and that is put on record. There is a verdict of guilty, and side by side with it is a finding that there was no actual intent to defraud the Government of the United States. Is that for the purpose of enlightening the court as to whether it shall enter judgment? Is that to be treated as a special verdict? Who ever heard of a special verdict that found the party was guilty as charged in the indictment, with a codicil to it that he had no actual intent to violate the laws? I really do not see myself what is the use of this amendment as it is reported by the committee. As the House left the section it gave effect to it; there was something in it; but it ought not to be as the House had it, because the word "actual" should be stricken out.

Mr. EDMUNDS. Mr. President, this is certainly a very extraordinary provision, both the one in the House bill and the Senate amendment. If any member of the committee who reported this bill has any knowledge in the history of law of there being put into a statute a charge that the court shall deliver to the jury upon the subject of the case before it, I should be glad to be informed of that instance. But I take it for granted that our committee or the House committee claim this as a new invention of theirs, as the truth is I believe for the first time in the history of any country that has had a civilized jurisprudence or legislation, you undertake to guide the course of judicial proceedings by declaring what sort of a charge a judge upon the facts and law before him shall deliver to the jury. I think it would be safe to say, in anything except this moiety act as it is called, if the Committee on the Judiciary of either House of Congress were to bring in a bill respecting any other criminal prosecution in which they should undertake to declare what the charge of the judge should be, they would be hooted out of court pretty quick, for the reason that it would destroy all liberty on the one side and would destroy the security of the community upon the other.

No judicial proceeding can be safe, either for the protection of the community or for the vindication of an innocent party accused, that undertakes to declare the sort of a charge in form or in substance that the court shall give to the jury on the trial. All that you can do for the safety of the community and of the individual is to declare in the law plainly what the offense shall be, and then leave it to the judge untrammeled to declare, in applying that definition to the facts and circumstances that are brought out, what the law is and what the jury are to find under the circumstances of that particular case. It would be impossible in the clearest case that a lawyer or judge can imagine to make it safe as a rule to lay down that the judge in any instance should give a particular charge to a traverse jury as to the case and the circumstances before it. I submit to the honorable chairman of the Committee on Finance, with his large knowledge of the law, that this is against all human experience as it respects the true

way to protect communities and to protect citizens; that it is not safe to do it.

But let us look at some other considerations. Perhaps I am wrong about this. It may be that all the criminal and penal statutes of the United States ought to have laid down in them precisely what kind of a charge should be submitted to the jury upon the prominent topics in the case, so that all the judge would be obliged to do would be, as committees of Congress are sometimes said to do, employ a clerk to take the testimony, and when that is through, go into court and read the statute to the jury which contained the charge which the law declared he should give, and then go home again and leave the jury to their own devices; but I cannot imagine that that was the purpose of this provision. The purpose was no doubt to endeavor to assist the courts in ascertaining in a particular case whether a particular law had been violated. But the difficulty is, as has been pointed out by the Senators from Ohio and Wisconsin, you so hamper this, leaving no judicial judgment to the judge to apply the law to the facts of the case, that he is obliged in every instance of any criminal prosecution or any civil prosecution, as you will observe if you will look at the beginning of this section, to deliver this iron-bound and iron-clamped charge to the jury if either party requests it; and of course the defendant will request it every time, because it enables him to more complicate, if he be guilty, the transaction, and to get out of it if he may; and with a jury that was not well taught there would be equal, or certainly in a degree nearly equal, danger on the other side from the fact that the judge was obliged to give a particular charge, and in the very words of the statute, or otherwise his judgment would be reversed; that even an innocent man might find himself cramped in the ten thousand complications that no man can foresee and provide against that arise in the course of a criminal trial or a civil action. It is impracticable for any code of legislative jurisprudence to point out in advance what the judge shall say to the jury in respect to the form or in respect to the substance of their finding. All that you can do, according to my small information of human experience, is to lay down your law declaring clearly what is to constitute the offense, and then give the court the jurisdiction to try it, and stop there. Then the judge, if he is honest and understands his duty, (as we must assume that he is or we had better have no government at all,) is enabled to take the case as the evidence discloses it and the law of the offense as it is defined, and put the two together before the jury in his own way; and if he puts them in a way that is injurious to justice or contrary to law, there is redress.

But look a little further at another branch of this provision, because I am now only speaking of this generally, and see where you are. It is to be an element that the jury shall find that there was an actual intention to defraud the United States. An actual intention by whom? Of course by the party who is under prosecution. That is the crucial point. Who is the party under prosecution? It is the consignee, the importer. You cannot get the foreigner who has undertaken to make the false invoice on the other side and to send it over here, and if you did get him you could not convict him, because he has not committed any crime against the laws of the United States. All that he has done has been done in a foreign country where there is no law of the United States which prohibits his doing any such thing. What then? Under this amendment the jury must find that the importer—not his agent abroad, but the man at the bar or the defendant in the action—has been guilty of an actual fraud. He goes to the custom-house and produces his invoice, swears to it, actually defrauds the revenue of the United States out of a thousand dollars in the given case.

Mr. CONKLING. He does not even need to swear to it himself. His broker or agent may swear to it.

Mr. EDMUNDS. I am coming to that. I am putting the strongest case that can be put. He goes to the custom-house, produces his invoice, swears to it, gets his permit, and lands his goods, and you prosecute him. Every honest importer has been defrauded because his coimporter undersells him. Every tax-payer in the United States has been defrauded because so much money that belonged to the Treasury has not been paid into it. Those are facts that have occurred, whether the particular importer knew what he was swearing about or did not; whether it was true or false. The honest importer has been wronged, and the Treasury and the tax-payer have been wronged; and yet a jury might be bound to acquit this man because when he is placed upon trial he says, "I did not know that; the junior partner in my firm made this arrangement and cheated the revenue; I did not know it; and my goods, the goods of the junior partner, the goods of the firm, cannot be forfeited." This is not a matter of personal punishment by an indictment against a man under the crimes act for committing a fraud on the revenue; but you will observe it in an action of any kind brought to enforce a forfeiture of the goods or to recover the value thereof or any larger sum in respect to the revenue. Therefore, if the United States had brought a suit, if it could, to recover the difference between the true duty and the false one, this section as it stood in the House bill or as it stands reported by the Committee on Finance, would absolutely defeat the recovery of that money which was due to the United States, unless the jury should find that the very person under trial actually intended to defraud the United States, knowing all the circumstances under which the transaction took place.

But, as the Senator from New York has suggested, it is not necessary even that the importer should swear to the invoice. He can pick up anybody in the streets who acts as a broker for him, who may swear to it, although he may not have the slightest idea about the circumstance at all. And yet you are going to say that nothing shall be done about it, because, I repeat, it is not merely a personal punishment; it is any sort of procedure by which the United States are to get redress. That is what the section provides, that nothing shall be done about it, and the fraud in effect upon the people and upon the honest importer shall go on unless the jury, under the direction of the judge on this precise point, shall find that the very party whom they have before them had actually intended to defraud the United States.

Take another instance. When I tread on the domain of the Committee on Finance I must be very careful in what I say, but I believe the laws of the United States made classifications of various kinds of goods, and if they fall within one class they are to pay a duty at a certain price, and if they fall within another class they are to pay a lower price. I believe that is so.

Mr. MORRILL, of Vermont. As to wool it is so.

Mr. EDMUNDS. As to wool it is so certainly. Other goods are to pay a duty according to the number of threads to the square inch.

Mr. WEST. Sugar is in another class.

Mr. EDMUNDS. Then another class, as my friend from Louisiana suggests, is sugar. Very well. The importer of sugar, or cottons, or wool, as the case may be puts his goods in a class where a less duty is to be paid. By and by a suit is brought to recover the balance of that duty. But when the defendant comes in and is asked to pay back merely the money he has kept out of the Treasury, not to suffer any personal punishment at all, he says, "O, no, the jury must find that I actually intended to defraud the United States; I put my clerks to counting the threads in this cotton or silk or in the wool, or to sample the sugar, and they reported to me that it belonged in the cheapest class, as they naturally would. I did not know it was not true and I put it in therefore I must be acquitted entirely. You cannot enforce any forfeiture. You cannot collect any sum of money."

Then, as the Senator from Ohio has said, take another step. The importer comes forward as he often does and says, "I understood the law to be that I might put this in this class, and therefore if I have made a mistake it is a mistake of law; I did not actually intend to defraud the United States; I thought the law authorized me to do this thing; to be sure I knew that all my coimporters entered the same class of goods in a higher grade, under a different head, but I thought they were paying more duty than the law provided, and I entered mine under the lower. Now, then, unless the jury find that I was a good lawyer and understood the law, and, knowing it, intended to break it, I am not only not to be punished, I am not only not to be exposed to the forfeiture of my property, but I am, positively, as this section reads, not obliged to respond in any sum." The language of the section is:

> Or any other sum alleged to be forfeited by reason of any violation of the provisions of the customs-revenue laws, or any of such provisions, in which action, suit, or proceeding on issue or issues of fact shall have been joined.

Mr. President, do you really intend to open that kind of a statute to the honest American people, who do not want to violate your laws; to the honest American people, who in some way have got to pay the taxes to carry on your Government and pay its debts? I cannot believe that you do. I cannot imagine, when you turn over here again to what is the definition of smuggling, that the committee intend to have the definition of smuggling go hand in hand with this procedure; and yet it seems to do so as the bill is drawn. I find on the third page that—

> For the purposes of this act—

Not for the purposes of this section in which it occurs, but for the purposes of the whole act—

> smuggling shall be construed to mean the act, with intent to defraud, of bringing into the United States, or, with like intent, attempting to bring into the United States dutiable articles without passing the same, or the package containing the same, through the custom-house, or submitting them to the officers of the revenue for examination.

That is all there is of smuggling. If I only bring them to the custom-house, no matter how corrupt my intention may be, no matter though I may have bribed that very custom-house officer in order to get them through, if I only lay them at his door or bring them into his presence on the northern border of the State of Vermont, my duty is done, and the law by statute declares that I am not a smuggler, that there is no forfeiture for that.

That being all that there is of smuggling, the omission to bring the thing to the knowledge of the customs officer, you may cheat him as much as you like, you may corrupt him as much as you like, you may undervalue as much as you like, you may go through the whole list of fraud and corruption, and if you can only deceive him or corrupt him, you stand free of any guilt in respect to smuggling. You are not a smuggler because you do not fall within the definition, guilt in that respect being only the keeping of the goods away from the sight of the custom-house or of the official that belongs to it.

Now turn over to this section and come to the provision for the enforcement of these things, and you find that this section covers again the whole ground just as the definition of smuggling does:

> That in all actions, suits, and proceedings in any court of the United States now pending or hereafter commenced or prosecuted to enforce or declare the forfeiture

of any goods, wares, or merchandise, or to recover the value thereof, or any other sum alleged to be forfeited by reason of any violation of the provisions of the customs-revenue laws, or any of such provisions, in which action, suit, or proceeding an issue or issues of fact shall have been joined—

The judge shall charge the jury so and so. What are you going to do then? You find here you have got a case where the man has brought in his goods contrary to law; but has brought them to the custom-house and the custom-house officer has been deceived, or the custom-house officer not being deceived has been corrupted, or negligent. Then under this act when you come to see what you are to do, you turn and find that the respondent is accused of smuggling. He disproves that at once. You have several counts, if the district attorney does his duty and he will cover the whole ground. You will find the custom-house officer did see this. It was in his presence. It was in a wagon that went by, and he saw the wagon and the package. What on the next ground? On the next ground he says the jury must find that I made false invoices. There is nothing else, because when you step out of the ground of regular importation and bring in goods without the payment of duties, and that is not put in this you observe, it is only the bringing in of dutiable goods without bringing them to the custom-house; that is all. Then the man says, "I believed the law authorized me to bring those goods in free, I did not feel obliged to pay any duty; I did not know but there might be some question about it, and I thought it best to bring them to the custom-house." The surest way of wise men, astute men, to commit crime is to do it with the greatest possible appearance of innocence, and with the greatest publicity possible in the nature of things and put a bold face on it. Then he says: "I thought these goods were under the reciprocity treaty; I had not heard that the reciprocity treaty had been abrogated; I knew there was one that was to continue; and I leave it to a jury of my fellow-smugglers on the border to determine whether I actually intended to defraud." Actually intended to defraud how? "It is only smuggling by failing to bring the goods to the custom-house. I brought them to the custom-house. I therefore was not guilty of smuggling."

When you come to the invoices, what then? A great many goods on the northern border are brought in every day without any invoices, and the law does not require any invoices. They come in carriages and all manner of ways, and a written invoice or a written certificate of the consul and all that kind of verification is not used at all, and the law does not require it, because you cannot do business in neighborhood transactions across the border in that way. Then the man goes free altogether.

I do not believe that this is the wisest way to rectify all the wrongs that people say so often have been committed in the city of New York and in other large cities by men who are informers and who get moieties, preying upon the necessities of honest men who have no means to defend themselves like Phelps, Dodge & Co. and the other men of that ilk, and who are so impertinent as to have their books not seized, but to receive their books which they surrendered themselves and find in them the circumstances which lead such people to force upon the Treasury of the United States against its will the payment of a large sum of money. That cannot be, Mr. President.

The real fact is, and I may as well say it now once for all—although perhaps it is not very wise in a tactical point of view to say so, but as I am not a tactician I will say here now—in my opinion it will be found that this bill will work a great deal more injury to the cause of morals, which has been spoken of, I believe, in connection with it, a great deal more injury to honest importers, a great deal more injury to the tax-payers and the Treasury of the United States, than the law as it now exists, and that if this bill passes, as I am to assume that it will, being reported by the leading committee of the body, four years will not go over your head, Mr. President, before this Senate will find itself obliged to take the back track, if it, as it no doubt does, shall intend to protect the revenue and to protect innocent parties both, and to restore in substance the present body of the law which clearly defines and clearly points out the punishment of the illegal and vicious introduction of dutiable goods into the United States; and that, like any other agency of the law, when you have laid down such a thing for the protection of innocent people and tax-payers and the punishment of the guilty, you cannot execute the statute without taking the natural and necessary means to do so. You will never be able to collect the revenues of the United States with anything like certainty, with anything like fullness; you will never be able to protect the innocent importers, ninety-nine out of a hundred as they are now, who never have any trouble at the custom-houses, and who only have one invoice to present and have no secret one or another book in their counting-room, and who are entitled to some protection—you never will be able to protect them against fraudulent importations and therefore underbidding the market against them, unless you use the natural and necessary means to carry on the investigations necessary to the purposes of justice.

Why, Mr. President, in the State which I have the honor in part to represent, and which has been supposed to be somewhat fond of private rights and individual liberty, no man's books and papers can be withheld from any judicial investigation. If my neighbors have a controversy in which any entry in my books is material to the decision of their cause, I am bound summarily to produce them. If I have a controversy with my neighbor in which I believe that any entry in his books is material to the question, he is bound to produce them, and produce them without delay. And yet when you come to the protection of the interests of the whole community, the innocent importer and the tax-payer, and ask to lay your hands upon the books of a commercial firm, upon affidavit of probable cause, to bring them up for examination in order that the revenue may be protected, everybody holds up his hands in horror and says, "What an invasion of private rights, what an outrage upon Magna Charta, what a shame to a moral and civilized community that the private papers of A B should be exposed to public gaze!"

Why, Mr. President, this is carrying fancy a little too far. There is nothing about the private papers of any citizen, if he is an honest man, that relate to his business transactions which he need to be ashamed to produce anywhere, or which he ought to be unwilling to produce anywhere when in the judgment of the judicial tribunals of the country the purposes of justice require that those books should be brought forward. I do not believe there is a State in the Union in which the law does not go as far or farther in respect to the seizure and examination and production (because that is all it comes to) of private books and papers as any act of Congress that is now upon the statute-book; and yet you are here building up a contrivance which you think is to stop frauds on the revenue of all kinds, and in the same breath declaring that the judicial tribunals of the country shall have no means which are adequate to its being carried into effect; there shall be no means of reaching the evidence which is to compel the party to pay his duties or to pay the penalty for not paying them; there shall be no means of reaching the evidence which is to protect the innocent importer who does pay his duties; and at the same time when you catch one of these men and bring him to the jury, then you are to lay down in advance by statute a charge which the court is obliged in the very words of the statute of course to put to the jury, which would leave them to judge not only of the facts which the man has committed, whether they show an intent to defraud, but also, as the Senator from Ohio so well said, leave them to judge whether he was sufficiently wise about the law in order to make him responsible for breaking it. You cannot carry on a civilized community in that way longer than one administration. If I wanted to break down this Administration before the next three years, I should be glad to saddle the republican party with the responsibility under a claim of this kind of taking a step of this sort, because the three years are long enough to have it appear precisely where you will land.

Now, Mr. President, having made my protest against this thing, and as I say no doubt in respect to this particular amendment very unwisely in a tactical point of view, I conclude.

Mr. SCOTT. Mr. President, I will not attempt to discuss any other features of the bill than the amendment immediately under consideration; but I cannot withhold an expression of regret that we were not favored yesterday with the able advocacy of the Senator from Vermont [Mr. EDMUNDS] in favor of that amendment reported by the committee which would have enabled the courts to get the books and papers of fraudulent importers for the purpose of putting them in evidence to meet just the issues that are provided for by this amendment.

Mr. EDMUNDS. So do I regret it.

Mr. SCOTT. I do not now remember whether the Senator was present or not. I have a faint recollection that it was stated that he was not well enough to be in the Senate.

Mr. EDMUNDS. I am sorry to tell the Senator that I was confined to my house by illness. If I had been here I should have voted with him.

Mr. SCOTT. I was expressing my regret that we had not his assistance.

Mr. EDMUNDS. In rather a sarcastical way.

Mr. SCOTT. The Senator from Vermont is so good a judge of sarcasm that I can hardly dispute his judgment if he says I am sarcastic.

Mr. EDMUNDS. I certainly am, because I have an opportunity of seeing it every day.

Mr. SCOTT. Now as to the amendment immediately under consideration, it has been suggested that it is a means by which fraudulent importers will escape the penalties which they ought to pay, by which the tax-payers of the country will be required to bear the burdens which these fraudulent importers ought to bear by paying their penalties; and it is suggested that this is so because if the question of the guilt or innocence of the importer is to be tried by a jury for the purpose of determining the question of forfeiture, he will never be found guilty of the actual intent to defraud. Now, sir, with all deference to the judgment of my eloquent friend from Wisconsin, [Mr. CARPENTER,] this is about the first time I have ever heard that the juries of the country may not be trusted to convict everybody who ought to be convicted where it helps them to pay the taxes.

Before pursuing the argument any further as to whether the subject is as safe in the jury-box as it is in the tribunals where the judgment is now required to be made, let me read the law as it now stands and see whether this provision is or is not open to the objections which are made to it. Where an importer or other person who is alleged to be liable to a forfeiture or to a penalty seeks to get rid of it, this is the provision under which he now acts.

Mr. EDMUNDS. What statute does the Senator read from?

Mr. SCOTT. I read from the act of the 3d of March, 1797.

That whenever any person or persons, who shall have incurred any fine, penalty, forfeiture, or disability, or shall have been interested in any vessel, goods,

wares, or merchandise which shall have been subject to any seizure, forfeiture, or disability by force of any present or future law of the United States for the laying, levying, or collecting any duties or taxes, or by force of any present or future act concerning the registering and recording of ships or vessels, or any act concerning the enrolling and licensing ships or vessels employed in the coasting trade or fisheries and for regulating the same, shall prefer his petition to the judge of the district in which such fine, penalty, forfeiture, or disability shall have accrued, truly and particularly setting forth the circumstances of his case, and shall pray that the same may be mitigated or remitted, the said judge shall inquire in a summary manner into the circumstances of the case, first causing reasonable notice to be given to the person or persons claiming such fine, penalty, or forfeiture and to the attorney of the United States for such district that each may have an opportunity of showing cause against the mitigation or remission thereof; and shall cause the facts which shall appear upon such inquiry to be stated and annexed to the petition and direct their transmission to the Secretary of the Treasury of the United States, who shall thereupon have power to mitigate or remit such fine, forfeiture, or penalty or remove such disability, or any part thereof, if in his opinion the same shall have been incurred without willful negligence or any intention of fraud in the person or persons incurring the same, and to direct the prosecution, if any shall have been instituted for the recovery thereof, to cease and be discontinued, upon such terms and conditions as he may deem reasonable and just.

Under that act, upon application to the judge of the district court, it becomes his duty to certify the facts to the Secretary of the Treasury, not simply to send the evidence as it is taken before him, but to find the facts and send them to the Secretary of the Treasury, and then if upon examination of the facts as certified to by the judge the Secretary of the Treasury shall be of opinion that there has been no such negligence or willful fraud as incurs the penalty, he may remit it. That is the law as it stands. So that the fraudulent importer now makes his application to a judge, and upon the preliminary hearing, upon a summary investigation before there has been a trial by jury in the court, that judge sends up the facts, and the question of whether the penalty is to be enforced or remitted rests in the judgment which the Secretary of the Treasury forms as to whether there was willful neglect or intentional fraud.

What does this amendment propose to do? Where a forfeiture of this kind is alleged to have been incurred, it provides that the question of whether that fraud which has incurred the forfeiture was done with intent to defraud shall be certified to and passed upon by the jury. It seems to me that this is an amendment in the right direction. We have heard in days that are past, and have heard something in recent days, of the importance to the citizen of trial by jury, before his life, his liberty, or his property shall be taken away. Here where his property is alleged to be forfeited, where he is alleged to be subject to a penalty, you give him the benefit of a trial by jury as to whether he has been willfully guilty of the act which it is alleged causes the forfeiture of his property or renders him subject to a penalty. Is that any hardship upon the citizen?

On the other hand, is it true that by resorting to such a tribunal fraudulent importers are more likely to escape than they are by such an examination as the one which I have read? There a petition is to be presented before the facts are fully developed, perhaps before they are all known to the district attorney, and upon a summary investigation the judge makes up the finding of the facts, and the Secretary of the Treasury, guided only by this finding, is to determine whether there was fraud or not.

I submit that you can safely trust this question to the juries in the United States courts. If it be true that these fines and penalties and forfeitures ought to go into the Treasury, ought to assist them in bearing the public burdens, the juries are just as likely to see that the fraudulent importer pays his penalties and relieves them from that much of the taxes as the judge is in finding the facts and the Secretary of the Treasury is in passing upon them. I can see no probable injury that is to result from this section. On the other hand, if there be an undervaluation such as some of those to which our attention has been recently called inserted by a mistake, such a mistake as for instance if a clerk should omit to put one pound and a few shillings of expenses upon an invoice, if that question is to be submitted to a jury, is not the importer as safe in being protected against a forfeiture by reason of a mistake as he will be after he has complied with these provisions in presenting his petition and having his case sent up to the Secretary of the Treasury?

Mr. HOWE. Will the Senator be good enough to explain what he means by that case to which he has just referred, where somebody was punished because a clerk had by accident omitted to add a pound of expenses to an invoice I suppose, although the Senator did not say so?

Mr. SCOTT. I do not remember whether anybody was punished in such a case; but I simply used it as an illustration. If an importer were to fail to put upon his invoice the expense of one pound and a few shillings, for instance, in transporting his goods from the place where they were purchased to the point at which they were shipped, or if his clerk in copying the invoice were to fail to put that on it, he would under the strict ruling of the law be liable to a penalty; and I simply used that as an illustration. I am not saying that the case has actually occurred, or that anybody has been punished for it.

Mr. HOWE. Does the Senator mean to say that the law actually exists which would subject the importer to a penalty under such circumstances?

Mr. SCOTT. My impression is that under the law as it now stands, if an invoice were made out showing that the value of the goods at a certain port was ten pounds, and it were to appear that one pound and four shillings had been paid in addition to the ten pounds for bringing them from the point where they were purchased to the point at which they were shipped, the omission of that one pound and four shillings would be an undervaluation in the eye of the law, and that invoice would be forfeited.

Mr. HOWE. The willful omission?

Mr. SCOTT. Yes, sir.

Mr. HOWE. Undoubtedly; but that is a very different case from what the Senator was stating.

Mr. SCOTT. I was simply stating the case as an illustration. If the question were now, was that a willful omission or was it a mistake? Would not that question be as likely to be determined properly by a jury as by a judge and by the Secretary of the Treasury?

Mr. HOWE. Must it not be determined by a jury under the law as it stands, the question of knowledge or intent being a constituent of the offense of which the Senator was speaking?

Mr. SCOTT. I have been citing the act of 1797 under which the importer in such a case would apply to the Secretary of the Treasury to have the forfeiture remitted before a trial by jury.

Mr. HOWE. That is a distinct proceeding.

Mr. SCOTT. Very well. This is proposed to be substituted for it.

Mr. HOWE. But is it a substitute for that?

Mr. SCOTT. So I understand it.

Mr. HOWE. What is the language which makes it a substitution for it?

Mr. SCOTT. It is this:

That in all actions, suits, and proceedings in any court of the United States now pending or hereafter commenced or prosecuted to enforce or declare the forfeiture of any goods, wares, or merchandise, or to recover the value thereof, or any other sum alleged to be forfeited by reason of any violation of the provisions of the customs-revenue law, or any of such provisions, in which action, suit, or proceeding an issue or issues of fact shall have been joined—

Then the amendment goes on to provide—

the court may, on its own motion, and shall, &c.—

submit these issues of fact to the jury. In the case which I have read, where a proceeding is instituted, before it is brought to trial, before it has been determined, the defendant, the party charged may present his petition and have this proceeding before the Secretary of the Treasury.

Mr. HOWE. Will not that provision survive the enactment of this? Is not this purely and solely a provision to direct the trial of a suit at law, and is not that a provision directing the manner in which an application shall be made to the Treasury to remit the consequences?

Mr. SCOTT. I can hardly concede that such will be the result, because if the application were to be made to the Secretary of the Treasury while the suit was pending and before the case has been tried, and he were to remit the forfeiture in advance, here stands a provision which requires this issue of fact to be submitted to a jury, and it can hardly be supposed that the penalty would be imposed and collected after it had been remitted by the Secretary of the Treasury. That has been my view of this provision, that it was intended to take the place of this application to the Secretary of the Treasury.

Mr. HOWE. And to repeal that law?

Mr. SCOTT. And to repeal that law; and in that view of it, I have considered that this was no hardship whatever upon the importer and that there was no danger of the Government losing its revenues by it. If I have been mistaken in that it has been my mistake; it has not been considered in committee, whether it did repeal it or did not; but I certainly in looking at it have looked upon this amendment as a substitute for that act of 1797.

Mr. HOWE. Mr. President, I hardly know whether to say I am in favor of this particular amendment or not at this stage of the debate. I am confused and bewildered in making up an opinion as to what is after all the real intent and purpose of this whole bill. If it is the purpose of this bill to make the collection of the revenues more certain and more complete, then I think the whole bill is a mistake. If it be, on the contrary, the purpose of the bill to make importing easy, the payment of duties optional with the importer, and to make rascality generally safe and secure, I cannot say but that the bill is pretty well contrived, and I do not see any reason for objecting to the particular amendment now pending.

I must confess that it does look to me as if every clause of this bill was contrived in aid of those who are not willing to pay duties, as if every clause of it was drawn for the express purpose of making the collection of duties difficult and uncertain. I see the title of the bill is simply "to amend the customs-revenue laws and to repeal moieties." It is specific so far as one object is concerned, that is, to repeal moieties; quite general in respect to the other object named, to amend the customs-revenue laws. For nearly a century, the better part of a century, Congress has been laboring to so perfect its legislation as that the collection of your revenues should be made more and more certain year after year. Is it true that we are about to take a new departure, that the extraordinary powers of Congress are to be exerted now, not in behalf of the Government which seeks revenue, not in behalf of honest importers who are always willing to pay duties if their rivals in business will pay duties also, but to be exerted solely, expressly, and specifically in aid of those who have not paid duties and are not willing to pay them.

I find on my desk a pamphlet which is said to contain the evidence given before the Committee on Ways and Means relative to moieties and the customs-revenue laws. On the very first page of that pam-

phlet I find this extraordinary statement: A witness, who had been a special agent of the Treasury Department testified that he had been officially connected with the examination of fifty-nine cases of alleged frauds perpetrated by importing merchants on the revenues. Of those fifty-nine cases, one, after suit was commenced, was dismissed on the motion of the district attorney for reasons, as the witness said, not known to him. Another case was dismissed at his instance upon ascertaining that other parties had committed the fraud other than those against whom the suit was commenced; nine cases are still pending; forty-eight have terminated in judgments against the parties accused. That is the experience of one of your officials. Out of fifty-nine cases of alleged fraudulent practices on the part of importers forty-eight of them have terminated in judgments.

I do not know what instruction other Senators may draw from that piece of testimony. To me it suggests that instead of our trying to make the business of importing easier and the matter of avoiding payment of duties plainer, we want additional safeguards to it; and yet it seems to me, as I said before, that this bill in every clause of it has directly the opposite intent. Instead of drawing from that fact the lesson which it teaches me, that we want additional safeguards, here is a bill which proposes to muster out of service the whole class of officers to which this gentleman belongs, to dismiss them at once. Why? Has he detected too many frauds? He has detected a very large percentage, it must be admitted. Has he detected too many? Who complains? What wrong has been perpetrated under your laws as they stand against an honest importer? I ask these questions for information. I suppose the Finance Committee, if they really mean to make the checks less numerous than they already are, have discovered that innocence has suffered under the operations of existing laws, that innocent and honest merchants cannot protect themselves. If they have such testimony, it ought to be submitted to the Senate. I have not heard of it. I would be glad to know it.

Mr. President, touching this particular amendment, to which I suppose I ought to make some reference, I have only this so say: Every Senator must have noticed that this is to apply to cases now pending as well as to cases hereafter to be commenced. I take it there is not a suit pending anywhere in the United States, before any of its courts, in which this question of intent to defraud is not an element under the law as it stands. If it be a constituent of the offense charged under the law as it now stands, no matter what court tries the case, the court will tell the jury that an intent to defraud is of the gist of the offense, and that you cannot convict unless you find that intent. That is under the law as it stands, let the cause be tried in what court it may. Then in reference to those cases the addition of this language will be precisely what the honorable Senator from Ohio, [Mr. THURMAN,] pointed out a short time ago; that is, requiring the jury to find that an actual intent to defraud is something a little more than an intent to defraud, and not simply to find it in their general verdict, but to make a special finding of it independent of their general verdict. It must be only an attempt to bamboozle the jury in reference to that class of cases. It can have no other effect, it seems to me, possibly. But on the contrary, suppose this intent to defraud be not a constituent under the law as it stands of the offense charged in a suit now pending, then the effect of this clause is to introduce a brand-new constituent, a brand-new element, into a suit now pending. I do not think the Committee on Finance would insist upon that. I do not think they would consider it safe legislation in any case.

On the whole I think I shall vote against this amendment, let the general purpose of the bill be what it may. I think the bill will be better without the amendment than with it.

Mr. SHERMAN. It struck me that the criticism upon the word "actual" had some force, and I therefore move to strike it out. I do not think it changes the actual meaning of the amendment. I withdraw the motion for the present, as I understand another is to be offered.

Mr. WRIGHT. If it is the intention of the Senate to proceed with the consideration of this bill further, I desire to submit a few remarks on the question before it. If, however, the Senate prefers to adjourn at this time, I will yield.

Mr. SHERMAN. I was about to move to strike out the word "actual," but I thought the Senator wished to speak on this subject and perhaps offer an amendment, and therefore I withdrew that motion.

Mr. WRIGHT. I wish to understand what the purpose of the Senator from Ohio is; whether he proposes to sit this bill out this evening?

Mr. SHERMAN. O, yes; I hope the Senate will sit this bill out to-night, for the reason that to-morrow by unanimous consent a special order was made in behalf of bills from the Committee on Military Affairs, and then I suppose the financial bill reported to-day will naturally excite some discussion. Therefore to-day is the only chance I know of to dispose of this bill.

Mr. WRIGHT. I wish to say a very few words on this amendment.

Mr. CHANDLER. This matter will evidently lead to a very long discussion; and with the consent of the Senator from Iowa I will move that the Senate do now adjourn. The bill will take all night evidently.

Mr. WRIGHT. Inasmuch as I am opposed to adjourning, I cannot yield for that purpose.

The PRESIDING OFFICER, (Mr. FERRY, of Michigan, in the chair.) The Senator from Iowa declines to yield.

Mr. WRIGHT. In view of what I am satisfied is the anxiety of the committee to have a vote on this question, as I concur in what has been said by the chairman, who suggests the striking out of the word "actual," if we can do that by consent and get a vote at once, I shall not occupy time but give way to a vote.

The PRESIDING OFFICER. The Senator from Ohio moves to strike out the word "actual."

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The clerical omission of the word "have," in the eighth line, will be supplied if there be no objection. The question recurs on the amendment as amended.

Mr. CHANDLER. I move that the Senate proceed to the consideration of executive business.

The motion was not agreed to; there being on a division—ayes 18, noes 24.

Mr. SHERMAN. Perhaps it will expedite matters if I explain to the Senate now the state of this bill. There are three or four sections to which there are no amendments of any material importance, and then there is a long section reported as an amendment about the pay of collectors of customs. I have now the authority of the Committee on Finance to withdraw the whole of that amendment except so far as relates to the district of New York, the district of Boston, and the district of San Francisco, where the repeal of the moieties by the preceding part of the bill greatly affects the salaries, and where we have proposed somewhat to enlarge the salaries, leaving the salaries in all the other collection districts precisely as they are.

I make this statement in order to show that there is nothing in the bill now to increase salaries or add new officers, with the single exception I have stated of New York, San Francisco, and Boston, where by reason of the repeal of moieties the salaries have been so greatly reduced as to make them far below what anybody would believe to be a just compensation. In these districts we have provided for an increase of the salaries. Many thought the arrangement of salaries proposed was too large or too small or that one district was in that ought not to be in, and so on; and it is impossible in the condition we are in now for us to adjust the question of salaries as carefully as it ought to be done. Indeed I think the whole question of salaries of collectors and other officers of the customs ought to be referred to the Committee on Commerce and let them take up the whole matter. But so far as the districts of Boston, New York, and San Francisco are concerned, it is manifest that there must be an increase of the salaries in those districts. In New York the salary of the collector is but $4,000 a year, and he gets $44,000 in moieties. We repeal the moieties, and consequently leave him but $4,000 a year, which everybody knows is wholly inadequate for that port. So with Boston, and San Francisco in a less degree.

Mr. STEWART. I should like to inquire of the Senator from Ohio whether the system of moieties has not been in operation a long time?

Mr. SHERMAN. The Senator is aware that this bill does not affect materially the law as to smuggling; it does affect the law as to undervaluations. Most of these sections are to repeal laws passed during and since the war. For instance, all the laws which justify or authorize the seizure of books and papers were passed since 1863. They are repealed by this bill. So the laws authorizing moieties have been passed from time to time. The original acts authorizing moieties were passed at a time when the actual moieties were very small; but they were $2,000,000 last year.

Mr. STEWART. That is very true; but are we in a condition to try experiments? Is it a fact that men have become so much more honest now than formerly that the same inducements are not needed that were required originally in order to secure the collection of the revenue?

Mr. SHERMAN. It is hardly worth while at this hour to go into that question. I hope the Senator, if he wants instruction on that matter, will read the debate in the other House, and read the book of testimony which I see that the Senator from New York has before him.

Mr. STEWART. I am instructed sufficiently to say a word on this now. I think it is a very dangerous experiment. I think you had better increase your taxes.

Mr. WRIGHT. I think it is the wish of every Senator that we shall get along with this bill as rapidly as possible. I think perhaps there may be language in the second line of this section that if we would consent to strike out, the objection to the amendment of the committee would be withdrawn and thus expedite the passage of the bill. I move to strike out the words "now pending or."

Mr. SHERMAN. I have no objection to that. Then it will apply only to future cases.

Mr. WRIGHT. Then it would read:

In all actions, suits, and proceedings in any court of the United States hereafter commenced or prosecuted.

Mr. CONKLING. I think that would aid the section very much.

The PRESIDING OFFICER. The Chair will receive the amendment of the Senator from Iowa if there be no objection.

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Committee on Finance to section [14] 16.

Mr. CHANDLER. In my judgment, Mr. President, the passage of this bill will cost the Treasury of the United States this year not less than $25,000,000 in coin. I was an unwilling convert to moieties. For years and years I opposed the whole system, but was forced upon a personal explanation to believe that without the system of moieties your revenues never could and never would be collected.

A great deal has been said about spies and informers. Will any man within the sound of my voice tell me how he will arrest a criminal anywhere without detectives and informers? Much has been said about discharged clerks revealing what has occurred in the counting-houses of their employers. Pray where else will you look except to men who have been discharged, or to your detectives, or to anybody else who has acquired this information and will yield it up for money? Sir, detectives are not as a class of the very highest order; and yet they are useful in their occupation, and without them the ends of justice cannot be attained. Without these moieties all along on the frontier—and it extends from the upper boundaries of Lake Superior clear down to the very lower end of the coast of Maine—you would find smuggling upon every rod of all that frontier.

Mr. SHERMAN. I will inform the Senator that this does not affect the law about smuggling and the forfeiture of one-half. The forfeiture of one-half is provided for in this bill.

Mr. CHANDLER. The bill repeals all moieties, I understand; and I can inform the Senator from Ohio that nine-tenths, if not ninety-nine one-hundredths of all the seizures made on all that frontier are made by parties who receive their portion of the moieties sending spies into Canada; sending spies to look up the property that is to be sent across, and through the information thus obtained by spies paid by the very moieties that these men receive, the information is given that leads to nearly all the seizures.

Mr. SHERMAN. Let me read the Senator this section:

SEC. 4. That whenever any officer of the customs or other person shall detect and seize goods, wares, or merchandise in the act of being smuggled, or which have been smuggled, he shall be entitled to such compensation therefor as the Secretary of the Treasury shall award, not exceeding in amount one-half of the net proceeds, if any, resulting from such seizure, after deducting all costs and charges connected therewith:

Mr. CONKLING. Now read the definition of smuggling.

Mr. SHERMAN. I read it yesterday, but I will read it again:

Provided, That for the purposes of this act smuggling shall be construed to mean the act, with intent to defraud, of bringing into the United States, or, with like intent, attempting to bring into the United States, dutiable articles without passing the same, or the package containing the same, through the customs-house, or submitting them to the officers of the revenue for examination.

I think it is a little clearer definition than the existing law. I think the Senator from Michigan exaggerates the effect of this bill.

Mr. CHANDLER. No, sir; I understand it.

Mr. SHERMAN. It operates mainly in cases of undervaluation; where fines, penalties, and moieties inured to the collector, naval officer, and surveyor.

Mr. CHANDLER. You allow the actual discoverer of the fraud a share not exceeding one-half, but it may be 1 per cent. or 2 per cent. or 5 per cent., he does not know how much, or whether it will be much or little. Therefore you take away the funds that have heretofore paid for sending spies across the border in advance and keeping them there to discover the smuggler in advance, and thus you destroy the efficiency of your service all along on that frontier.

Mr. President, the estimate of those well informed is that the Treasury loses $20,000,000 a year in coin from smuggling along that frontier alone, notwithstanding all the moieties you give. Now, if I had my way, particularly on that frontier and even in the cities of New York and Boston and the other great centers, rather than to destroy or even reduce these moieties, I would give the whole of them to the men who discover fraud, and let it be known that the smuggler will be detected in any event and that when detected he will be punished.

Mr. President, this bill has a wrong title. Its title should be "A bill to facilitate smuggling and to prevent fines, penalties, and forfeiture of the smuggler." That should be the title of this bill, a bill to deplete your Treasury, a bill to encourage dishonest men. Mr. President, I care not what laws you may enact, you will find the smuggler as sharp as the maker of your law. I care not what your penalty may be, you will find the smuggler sharp enough to dodge that penalty. Look at your safe manufacturers. I care not what combination of locks you may make for your safes, you will find a burglar smart enough to unlock a safe in less than a month after the new combination has been made. Rascals are not fools. Smugglers are not young innocents. They are the sharpest, shrewdest men on the face of this earth the world over. Go all around the coast of Great Britain; go around the coast of Spain, of France, of Germany, and you will find the sharpest and the shrewdest men there are the smugglers. Go into the city of New York and you will find the sharpest and the shrewdest and the most unscrupulous men there are the men engaged in smuggling.

Allusion was made some time ago, and the point was discussed as to the propriety of confiscating the whole invoice where an intentional fraud was perpetrated in that invoice, and the proposition to do that was voted down. In that connection my honorable friend from New York alluded to a certain fact, but did not elucidate it as he might have done. Now, the ordinary rule in the custom-houses at New York, Boston, Philadelphia, Baltimore, and all the principal custom-houses in the United States is to examine indiscriminately one case in ten. They take an invoice, say of one hundred cases, or a thousand cases, and they set apart one case in ten indiscriminately and open that one case in ten and examine about one-fifth of that one case in ten. The number to be looked at is so perfectly enormous that it cannot be done, a thorough investigation cannot be made. The smuggler puts in his falsely invoiced goods into one case in five we will say. Suppose occasionally one of them is caught, he is making an enormous profit in any event.

The Senate has decided that it is a great hardship to punish this man who intentionally defrauds your Treasury. The Senate has decided that it will not exact a monetary penalty from the willing, determined smuggler. Now, for fear that there might be some other penalty than a monetary penalty this section provides that he shall suffer no other penalty. I will read the language:

The court may, on its own motion, and shall when requested so to do by either party, submit to the jury as a distinct and separate proposition, whether or not the alleged acts were done with an actual intention to defraud the United States.

Nine hundred and ninety-nine men out of a thousand among the smugglers will escape under that provision. You had better strike it out and say there shall be no penalty, and then you will have a better law and a more efficient law. Ninety-nine men out of a hundred ought to escape under that clause. The fraud is perpetrated by a clerk nine times out of ten. A man is hired by a large mercantile importing house to reside on the other side of the Atlantic and he perpetrates the fraud. He will send a false invoice to-day, and by the next steamer he will send to some junior partner or some clerk in the importing house here another and a true invoice which may never reach the principal of that importing concern. Hence when you bring him up for trial and punishment under the law with intent to defraud the Treasury of the United States, he can truthfully say that he knew nothing whatever about it. He may have suspected that frauds were going on from day to day; he may have known that these frauds were enormous; he may have known that he had driven every honorable merchant out of that branch of the importing trade; but he would be acquitted. Nine hundred and ninety-nine out of every thousand of the smugglers in New York, Boston, Philadelphia, and Baltimore would be acquitted under that clause that you now propose to enact.

But, Mr. President, as it has been decided that smuggling is no crime, I see no reason why the amendment should not prevail and allow the smugglers to go free.

The PRESIDING OFFICER. The question is on the amendment.

Mr. STEWART. What is the amendment?

The PRESIDING OFFICER.. The amendment will be read.

The CHIEF CLERK. The amendment is in section [14] 16, to strike out:

It shall be the duty of the court, on the trial thereof, to submit to the jury, as a distinct and separate proposition, whether the alleged acts were done with an actual intention to defraud the United States, and to require upon such proposition a special finding by such jury; or, if such issues be tried by the court without a jury, it shall be the duty of the court to pass upon and decide such proposition as a distinct and separate finding of fact; and in such cases, unless intent to defraud shall be so found, penalty or forfeiture shall be imposed.

And in lieu thereof to insert:

The court may, on its own motion, and shall, when requested so to do by either party, submit to the jury, as a distinct and separate proposition, whether or not the alleged acts were done with an intention to defraud the United States, or may submit any other specific interrogatory material to a determination of the issue or issues joined, and require special findings thereon by the jury; or if such issues be tried by the court without a jury, it shall be the duty of the court, when requested so to do by either party, to find the facts, and enter the same as a part of the record.

Mr. HOWE. Mr. President, the hour is very late and the Senate is very hot; I think altogether too soft to resist a proposition even if it is a bad one. I do not think the Committee on Finance ought to insist upon passing this bill to-night.

Mr. SHERMAN. If there is any objection to this section, and if the Senate desires to strike it out, I have no objection to its going out. It is nothing in the world except to provide in certain cases for a special rather than a general verdict. That is all there is in the section, and if Senators want to strike it out, let it go.

Mr. HOWE. Had we not better do that considerately to-morrow? I move that the Senate adjourn, (at five o'clock and forty-five minutes p. m.)

Mr. SHERMAN. I hope not.

The motion was not agreed to.

Mr. SHERMAN. To expedite the matter, I move to strike out section 16 of the present print, section 14 of the House bill.

The PRESIDENT *pro tempore*. The Chair will receive that motion if there be no objection. The question is on the motion to strike out the section.

The motion was agreed to.

The reading of the bill was resumed.

The next amendment of the Committee on Finance was in section [16] 18, line 6, after the word "transmitted," to strike out "without cost or expense to the petitioner;" so that the section will read:

SEC. [16] 18. That the summary investigation hereby provided for may be held before the judge to whom the petition is presented, or, if he shall so direct, before any United States commissioner for such district, and the facts appearing thereon shall be stated and annexed to the petition, and, together with a certified copy of the evidence, transmitted to the Secretary of the Treasury, &c.

The amendment was agreed to.

Section [17] 19 was read. The Committee on Finance proposed to amend this section in line 1, by inserting after the word "officer" the words "or officers," and striking out in line 2 "customs, special agent, or district attorney," and inserting "the United States."

The amendment was agreed to.

The PRESIDENT *pro tempore*. The Clerk will read the section as it would stand if amended as proposed by the committee, and it will be submitted as one question.

The CHIEF CLERK. The committee propose to amend the section so that if amended it will read:

SEC. [17] 19. That it shall not be lawful for any officer or officers of the United States to compromise or abate any claim of the United States arising under the customs laws, for any fine, penalty, or forfeiture incurred by a violation thereof; and any officer or person who shall so compromise or abate any such claim, or attempt to make such compromise or abatement, or in any manner relieve, or attempt to relieve, from such fine, penalty, or forfeiture, shall be deemed guilty of a felony, and, on conviction thereof, shall suffer imprisonment not exceeding ten years and be fined not exceeding $10,000: *Provided, however*, That the Secretary of the Treasury, in accordance with general regulations, to be prescribed by him, not in conflict with existing laws nor with the provisions of this act, may remit any fines, penalties, or forfeitures, upon sufficient proof that there was no fraudulent intention or willful neglect upon the part of such person or persons against whom such fines, penalties, or forfeitures shall have accrued, or on the part of his or their agent or agents.

Mr. CONKLING. Reluctant as I am to occupy a moment I will call attention to one result of this section which I think the committee does not mean, and I do it because the district attorney of a district quite distant from here has called my attention to one case especially to illustrate it, being a case of fraud, a case in which the penalty could never be collected from the party, but one in which he and those aiding him would be quite willing to pay a part in order to be exonerated and go on in business. It will be observed that this section takes away the power of escaping any portion of the penalty except in cases where there is no fraud; and, without dwelling upon it, the Senate will see that it prevents the Secretary of the Treasury in every case from saying to a man, "Now you cannot pay this penalty, but if you or your friends will pay 25 or 50 per cent. or 75 or whatever it may be you shall be released." It prevents an arrangement of that sort so common in all the affairs of life and especially so in these cases.

As I say, my attention has been called to one case in which the penalty I think is some $40,000, and it is utterly idle, as the district attorney writes to me, to attempt to collect it; but if there were power in the Secretary of the Treasury or anybody else to compromise it upon the party paying one-half or whatever the percentage might be, he could do it; but it does not fall within this section because it is a case of confessed fraud.

Mr. SHERMAN. This power in the Secretary of the Treasury to settle and compromise all cases in pursuance of general regulations is limited only to cases where there is no fraudulent intent or willful neglect. Whether it is wise to give the Secretary of the Treasury power to compound cases of actual crime and fraud is a question for the Senate to determine. The committee finding this section here left it in the bill and simply changed the words. I am not sure but that it would be well enough to leave to the Secretary of the Treasury full power to compromise all cases; but this is an amendment in the other direction, and I would ask the opinion of the gentleman who has acted as Secretary of the Treasury, would he have under the existing law compromised a case where there was a clear fraudulent intent or where there was an admitted neglect of duty?

Mr. BOUTWELL. No, sir.

Mr. SHERMAN. This therefore does not change the practice of the Department. Whether it changes the law or not, I do not know. The Secretary is authorized here to compound and compromise all cases except these two.

Mr. BOUTWELL. I should be opposed to the section. I think it is wrong in both its parts. The first part is unnecessary, and the second part of the section is very unwise. The Secretary has the power now to settle all matters of penalty where there is evidence satisfactory to the judge of the court trying the case and the Secretary that there was no intentional fraud, and you have provided in this bill already in the two preceding sections in the same direction. It seems to me the proviso of this section is wholly unnecessary and unwise. If it is designed to extend to the relief of parties from criminal proceedings, it is eminently unwise that any such power should be vested in the Secretary of the Treasury.

Mr. SHERMAN. I think myself the Secretary would never undertake to settle and compound a case of clear fraud.

Mr. CONKLING. But why should he not? Take the case I have here in a letter where a man is liable to $40,000 penalty which he cannot pay and which never can be collected.

Mr. SHERMAN. That is provided for in the preceding section the Senator will see. The Secretary is authorized to mitigate the payment of a fine, penalty, or forfeiture, or remove a disability.

Mr. CONKLING. Where does the Senator find that?

Mr. SHERMAN. In the preceding section, page 13, where the Secretary is authorized on a summary investigation—

To mitigate or remit such fine, penalty, or forfeiture, or remove such disability, or any part thereof, if, in his opinion, the same shall have been incurred without willful negligence or any intention of fraud in the person or persons incurring the same, and to direct the prosecution, if any shall have been instituted for the recovery thereof, to cease and be discontinued upon such terms and conditions as he may deem reasonable and just.

Mr. CONKLING. That is the very point to which I call attention. Here is a case, to which I refer him, of confessed fraud, where the penalty is $40,000; it cannot be collected; but if anybody has power this man confessing his fraud, to accept $5,000 or $10,000, that he says he can raise and pay. I say that these two sections as I read them take away from the court, from the Secretary of the Treasury, and from anybody else, the power to do that.

Mr. SHERMAN. Except the President.

Mr. CONKLING. By way of pardon, the Senator means?

Mr. SHERMAN. Yes.

Mr. CONKLING. But that applies to a criminal case. The case I am speaking of to my friend is one *in rem*, where goods have been seized as smuggled goods; there is a penalty incurred in consequence of the seizure, and the penalty far exceeds the amount of the value of the goods which have been seized, so that the personal ability of the owner is the only thing to which the Government can look. Now, this prosecuting officer says to me that he has the very case before him where the Government can take, as he is assured, $5,000 or $10,000, if there were anybody who has power to do it; but if this section passes, nobody, not even the President of the United States, can do it; for it is not a case for pardon, or for anything which falls within his province.

Mr. THURMAN. Mr. President, so far as the power of the Secretary of the Treasury is concerned, it seems to me that these nineteenth and twentieth sections are wholly unnecessary, because the act of 1797 already provides the mode by which a person who has been subjected to fine, forfeiture, or the like may obtain a remission by a petition to the judge of the proper district, a hearing before him, and a certification of the evidence by him to the Secretary of the Treasury who is authorized to remit where in his opinion there has been no willful negligence or intention to defraud the Government.

The insertion of these sections looks as if there was to be some independent application to the Secretary of the Treasury without going through the mode provided by the act of 1797. I think that those sections therefore had better go out, and if the Senator from New York thinks that the power to compromise in cases of admitted fraud ought to exist in order that we may get the most money we can under the circumstances, that will present a distinct and independent proposition, about which there might well be very different opinions. On the one side the Government might save some money by such a provision as that; in other words, by having exactly the power an individual has of compromising with his fraudulent debtor; on the other hand it is a tremendous power to place in the hands of one man who superintends the collection of $200,000,000 a year to say that he may remit, whenever he sees fit in order to obtain money from a fraudulent debtor, all the rest of a debt which he thinks he cannot obtain. It is a very dangerous power indeed—a tremendous power to place in the hands of a single man. I do not know without reflection how I should vote upon that proposition if it were here; but I think if it is to be here at all, it had better be offered as a distinct proposition; and that to clear this bill of what is wholly unnecessary, the nineteenth and twentieth sections had better be stricken out. Why should the twentieth section be retained? The twentieth section as renumbered, not the twentieth original section, (I use the numbers of the new print,) provides:

That whenever any application shall be made to the Secretary of the Treasury for the mitigation or remission of any fine, penalty, or forfeiture, or the refund of any duties, in case the amount involved is not less than $1,000, the applicant shall notify the district attorney and collector of customs of the district in which the duties, fine, penalty, or forfeiture accrued; and it shall be the duty of such collector and district attorney to furnish to the Secretary of the Treasury all practicable information necessary to enable him to protect the interests of the United States.

With the exception of this refunding of duties, the district attorney has already been notified to appear before the judge, and the judge has found the facts, and certified them and the testimony to the Secretary of the Treasury. Why, therefore, summon him and the collector again?

Mr. BOUTWELL. As far as I understand these two sections, the first is unwise and the second is unnecessary. The power the exercise of which is directed by the twentieth section exists at the present time. I do not think a party charged has ever been relieved by the Secretary of the Treasury except the subject-matter had been under the cognizance of the district attorney or the attorney of the United States charged with the management of the case; and the twentieth section merely re-enacts that practice, and I believe the practice depends upon statute now.

As regards the nineteenth section of the new numbering, it will be seen, as I think, that the committee of the Senate have changed entirely the original purpose of the first part of this section. As it came from the House it evidently was aimed at what was supposed to be a practice, but which I believe never was a practice, of subordinate officers making compromises or settlements on their own account and by their own judgment, without the case being reported to the Treasury Department and acted upon in the ordinary way. If you look at the text of the bill as it came from the House, it was evidently the intention of the committee that framed the bill to put an end to that practice, which of course would be necessary if any such practice had ever existed. But now the amendments proposed by the Finance Committee of the Senate deprive all the officers of the Treasury Department, from the Secretary down, of the power to adjust any of these claims, and then the proviso comes in and authorizes the adjust-

ment by the Secretary of the Treasury where no fraudulent intention is shown to exist.

Now, as regards the first part of this section, the object aimed at by the committee of the House being wholly unnecessary, no such practice existing, I submit that so much of this section ought to be rejected by the Senate. And then as regards the latter part, the proviso, there is a way under this statute, there is a way under the statute of 1797 of reaching the same result with steps of caution through the court, which are not contained in this proviso; and therefore the existing law for the purpose of practical administration is much better than the statute would be if this proviso were enacted.

As regards the settlement of claims arising out of admitted frauds on the Government, there is no statute authorizing the settlement of such claims unless it be a section found in an internal-revenue law passed in 1863 which was construed by several Secretaries of the Treasury previous to the time that I occupied the position to authorize the settlement of every claim by the Government which could be adjusted by pecuniary compensation. I am not aware that any case of actual fraud ever was so adjusted; but I believe the interpretation given by Mr. Chase and Mr. Fessenden and Mr. McCulloch to the law would authorize the settlement of such a case if it appeared that the party was not able to respond to the amount for which he had been mulcted in full; that is, part of it might be taken if the party were bankrupt or unable to respond in full to the amount for which he was justly liable.

Mr. CONOVER. It is now after six o'clock, and it must be plain to every one that this bill cannot be concluded to-night.

Mr. SHERMAN. Fifteen minutes will do it, I think.

Mr. CONOVER. There are several points in the bill yet to be considered.

Mr. SHERMAN. I know; but they will not take long. If the Senator from Florida will give way, on the suggestion made by the Senator from Massachusetts, if he thinks these two sections are unnecessary he can move to strike out the nineteenth and twentieth sections.

Mr. CONOVER. I was going to move, and do move, that the Senate now adjourn.

The motion was not agreed to.

Mr. BOUTWELL. Now, if it is in order I will move to strike out the nineteenth and twentieth sections of the bill as reported, being the seventeenth and eighteenth sections of the House bill.

The PRESIDENT *pro tempore*. The Chair will receive that motion if there is no objection. The question is on the motion to strike out.

The motion was agreed to.

The Chief Clerk continued the reading of the bill, and read section [19] 21, as follows:

SEC. [19] 21. That whenever any goods, wares, and merchandise shall have been entered and passed free of duty, and whenever duties upon any imported goods, wares, and merchandise shall have been liquidated and paid, and such goods, wares, and merchandise shall have been delivered to the owner, importer, agent, or consignee, such entry and passage free of duty and such settlement of duties shall, in the absence of fraud and in the absence of protest by the owner, importer, agent, or consignee, be final and conclusive upon all parties.

Mr. CONKLING. I inquire of one of the Senators having charge of the bill, whose fraud is referred to in this section?

Mr. SHERMAN. Any fraud. "In the absence of fraud, and in the absence of protest by the owner, importer, agent, or consignee," is the language. If the Senator can make it more definite I shall be very glad to have him do so.

Mr. CONKLING. I think it means, and I think my friend will agree with me if he turns back to page 3, that it can mean no fraud except that of the importer, the consignee, the person on this side, whatever may be the fraud of the consignor on the other side, and when a liquidation has once occurred, that is final and conclusive upon all parties. The Senator doubtless knows as well as I do that at the port of New York, perhaps more than anywhere else, owing to the great amount of business, liquidations are made very rapidly, summarily, and it occurs in very many cases that errors are made and importers come voluntarily afterward, and tender the duties which were unpaid, finding the mistake themselves. Under this section and under previous sections, I understand it would be a crime for a collector to receive a voluntary payment in that case. Then when you come to all the instances of fraud discovered in the consignor where the invoice was made on the other side and the fraud there took place, the liquidation is quickly made and passed through the custom-houses, and the Government is forever estopped from readjusting the liquidation. I submit to the Senator from Ohio that the section ought to be changed either by striking out "in the absence of fraud" or in some other mode which will effect the object.

Mr. SHERMAN. It is perfectly manifest that this section is intended to prevent stale claims from being made against persons who have imported goods free of duty or who have imported good and paid the duties in good faith, everybody supposing the settlement was right, and afterward it should turn out by accident or design that too little was collected or some mistake made. This excludes from the benefit of the section every case of fraud.

Mr. CONKLING. Suppose you say "in the absence of fraud, whether of the consignee, or the consignor, or their agents." If I go through the custom-house, however innocent, and it turns out afterward that I have paid but a small part of the duties chargeable to me, I do not see why, when the officers come to write up their accounts, they should not be permitted to send around to my office and say, "An error occurred in liquidation yesterday, and you owe the custom-house fifty dollars," and why I should not pay it. If this section is to be enforced and care is to be taken, the Senator will see that it will make very slow, very careful, very circumspect this process which now it is all-important to importers to have promptly done, with the understanding all around that if an error occurs attention is to be called to that and it is to be adjusted afterward. Under this section, however, every man must go upon his peril; he must know that he commits the Government absolutely and never can call upon it afterward, or under a previous section that he cannot even receive it, without committing a misdemeanor if a voluntary tender of it is made. I would strike out "fraud" altogether, or, if I retained it, I would put in words that would apply to both sides and the agents of both sides.

Mr. SHERMAN. Strike out "in the absence of fraud," and we can examine it more fully.

Mr. SARGENT. Then you make it final and conclusive whether there is fraud or not.

Mr. SHERMAN. It seems to me the section is right now. It simply prevents a man who has paid honestly and fairly, in the absence of fraud, from being bothered and harassed afterward.

Mr. BOUTWELL. Should there not be, as in some other cases, some time fixed, say after the expiration of six years? Of course there should be an end to proceedings, either civil or criminal, in these cases, but that it should be immediate on the delivery of the goods seems to me in the highest degree improper and unadvisable.

Mr. SHERMAN. I would make this suggestion, "after a period of one year."

Mr. BOUTWELL. I think that is rather short. Three years is the statute of limitations on crimes. One year is too short a time.

Mr. SHERMAN. Insert after the words "settlement of duties" the words "after the expiration of one year."

Mr. BOUTWELL. I should prefer to say "three years."

Mr. SHERMAN. Well, I will say "after the expiration of three years."

Mr. CONKLING. I think that improves it very much.

Mr. SHERMAN. I move to insert the words "after the expiration of three years from the time of entry" after the word "shall" in the seventh line.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The reading of the bill will be continued.

The Chief Clerk read section [20] 22. The Committee on Finance proposed to amend the section by striking out in line 6, after the words "time of," the words "any legal disability of the person, or his;" in line 7, before the word "absence," by inserting the word "the;" in the same line, after the words "United States," by inserting the words "of the person subject to such penalty or forfeiture;" so that the section will read:

SEC. [20] 22. That no suit or action to recover any pecuniary penalty or forfeiture of property accruing under the customs-revenue laws of the United States shall be maintained unless such suit or action shall be commenced within two years after the time when such penalty or forfeiture shall have accrued: *Provided*, That the time of the absence from the United States of the person subject to such penalty or forfeiture, or of any concealment or absence of the property, shall not be reckoned within this period of limitation.

The amendment was agreed to.

Mr. STEWART. What is the limitation now on these prosecutions?

Mr. CONKLING. Six years.

Mr. SCOTT. I think "two" should be stricken out and "three" inserted, to correspond with the limitation fixed by the previous section.

The PRESIDENT *pro tempore*. Does the Senator from Nevada make a motion?

Mr. SCOTT. If the Senator from Nevada does not make any motion, I move that "two" be stricken out and "three" inserted.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania.

The amendment was agreed to.

Mr. CONKLING. I think that improves the section, but I beg to call attention to two or three things in regard to it. I understand the effect of the amendment in line 6 is that the statute shall run during legal disability. Why should the statute run if in the mean time there is no power to proceed?

Mr. THURMAN. What is legal disability of the defendant?

Mr. SCOTT. That is stricken out.

Mr. CONKLING. It will read then:

Provided, That the time of absence from the United States of the person subject to such penalty or forfeiture, or of any concealment or absence of the property, shall not be reckoned within this period of limitation.

The effect would be not to include the period of disability. I am inclined to think that the Senators are right, and I wrong as to that; but I venture to call attention to another matter here. I see the provision is that no suit or action shall be "maintained." Was that word chosen to apply to existing actions? If not, I suggest that the provision should be as it is stereotyped in all the statutes of limitation that I know of, that "no proceeding shall be hereafter commenced," or words to that effect. There may be many cases pending now where it will turn out on the trial that the action was

not commenced until more than three years after the original act was done. I presume it is not the intent to cut up those actions by the roots; and yet the use of the word "maintained," I submit to the Senators for their consideration, would have that effect.

Mr. SCOTT. The Senator from New York will see that the phraseology is certainly not intended to apply to pending suits, for the reason that the future tense is used in connection with the first part of the section: "Shall be maintained unless such suit or action shall be commenced."

Mr. CONKLING. Why not change the word "maintained?" I think it is open to objection.

Mr. SHERMAN. Say "which have been commenced."

Mr. SCOTT. If it read "shall have been commenced" it would have been open to the criticism made.

Mr. CONKLING. The Senator from Ohio having no objection I move that "maintained" be stricken out and "instituted" inserted in lieu of it.

The PRESIDENT *pro tempore*. The Chair hears no objection to receiving this amendment.

The amendment was agreed to.

Mr. SHERMAN. Now, in regard to the next two sections reported as amendments, I propose to strike out the great body of them, and the Clerk will note the changes I propose. From line 1 to the end of line 13 of section 23, as reported, provide for the salaries of the collectors at New York, Boston, and San Francisco. I leave in all of section 23 down to line 13, so as to provide for the salary of the collector of the district of New York at $12,000, and collectors of the district of Boston and San Francisco each at $8,000. Then I stike out commencing in line 14 down to and including line 68. Then I leave in lines 69 to 73, providing for the naval officer for the district of New York, for the naval officer of the district of Boston, and for the naval officer for the district of San Francisco.

Mr. HAMLIN. The Senator will allow me to suggest that lines 77, 78, and 79 should come, out as applicable to officers who belong to the districts he has already stricken out.

Mr. SHERMAN. I propose to strike out all from lines 74 to 79.

Mr. HAMLIN. All right.

Mr. SHERMAN. Then I leave in lines 80 to 83, which provide for the surveyors of the ports of New York, Boston, and San Francisco, and I strike out from line 84 to 86. Then I leave in from line 87 down to the bottom of that page and to line 110 on the next page. That clause provides for the subordinate officers at the port of New York. Then I strike out from line 111 to 122, and I leave in from line 123 to line 132. That applies to subordinate officers for the district of New York. Then I strike out from line 133 down to and including the word "Department," in line 136; so that that clause will read:

And the annual compensation of other collectors, surveyors, and other officers and employés connected with the customs service not named herein—

And here I insert the words "and not herein otherwise provided for"—

shall continue as fixed by existing laws.

Then strike out the whole of section 24 as reported.

I will state again that the object of these sections originally was not to increase any salary, but simply to provide for the case of the repeal of moieties. Finding such a diversity of opinion among Senators as to the respective grade and importance of their respective ports, a difference that was utterly impossible to reconcile—some wishing to base compensation on one basis and some on another—we propose to leave that so that the Committee on Commerce can at their leisure look carefully over the whole subject; and we simply provide for the three great ports of New York, Boston, and San Francisco, which will suffer most by the passage of this bill repealing moieties.

Mr. CONKLING. Will it be agreeable to the Senator for me to direct his attention to two matters now?

Mr. SHERMAN. Certainly.

Mr. CONKLING. I ask him to look on page 15 at the bottom of the page, at line 4 of section 23. What does he propose to do with that?

And other officers or employés connected with the customs service.

Mr. SHERMAN. That language is necessary because there are other officers and employés included, as for instance on page 19 quite a number of clerks, samplers, measurers, &c., in the city of New York.

Mr. CONKLING. Now I wish the Senator to turn to page 20, and there I call attention to what I think is a contradiction in the bill. In the first place at the bottom of page 19 he will find these words:

And that all supplies shall be furnished by the collector on monthly estimates submitted by the appraiser to the Secretary of the Treasury, and approved by him.

There the collector is to act, and he is liable on his bond. Now proceeding:

And all repairs and alterations needed in the public store and appraiser's department at said port of New York shall be made on the recommendation of the appraiser in such manner as the Secretary of the Treasury may direct.

There the collector has nothing to do with it, and yet he is responsible all the time on his bond. I presume there is no reason for that, and I think there are strong reasons against it. Therefore I suggest to the Senator to insert the same words that he employs a few lines before.

Mr. SHERMAN. It is a matter I am not advised about.

Mr. SARGENT. The collector would not be responsible on his bond for repairs and alterations in the appraiser's store if he had nothing to do with them.

Mr. CONKLING. Yes, sir; there is no doubt about it.

Mr. SHERMAN. It seemed to be right that the appraiser should have charge of the alterations in the public stores.

Mr. CONKLING. Then why not put the other case on the same principle?

Mr. SHERMAN. I will accept the amendment.

Mr. CONKLING. I would suggest this language: "and all repairs and alterations needed in the public store and appraiser's department at said port of New York, shall be made in like manner," and then strike out in line 109 all after "appraiser;" so as to read:

And all repairs and alterations needed in the public store and appraiser's department at said port of New York shall be made in like manner on the recommendation of the appraiser.

That will strike out the words "in such manner as the Secretary of the Treasury may direct."

The PRESIDENT *pro tempore*. This amendment will be considered as agreed to if there be no objection. The question is on the amendment of the committee as amended at the suggestion of the Senator from Ohio.

Mr. CONKLING. Does that include the twenty-fourth section?

Mr. SHERMAN. The striking out of that section is included in my amendment, so that there is no salary increased except in the three cases named.

The amendment was agreed to, being to insert the following:

SEC. 23. That in lieu of the salaries, moieties, and perquisites of whatever name or nature, and commissions on disbursements, now paid to and received by the collectors, naval officers, surveyors, and other officers and employés connected with the customs service in the several collection districts of the United States hereinafter named, there shall be paid, from and after the 1st day of July, 1874, an annual salary as follows:

To the collector of the district of New York, $12,000.

To the collectors of the districts of Boston and Charlestown, Massachusetts, and San Francisco, California, each $8,000.

To the naval officer for the district of New York, $8,000.

To the naval officers of the districts of Boston and Charlestown, Massachusetts, and San Francisco, California, each $5,000.

To the surveyor of the port of New York, $8,000.

To the surveyors of the ports of Boston, Massachusetts, and San Francisco, California, each $5,000.

To the appraiser and other officers and employés in his department in the port of New York, as follows:

To the appraiser, $8,000.

To the assistant appraisers, each $4,000.

To the examiners, each not to exceed $3,000.

To the clerks who may be designated chief clerks, each not to exceed $2,500.

To clerks, verifiers, and samplers, each not to exceed $2,500.

To messengers, each $900.

To openers and packers, each three dollars per diem.

The collector at New York shall detail a store-keeper and such number of clerks and other employés as may, by the Secretary of the Treasury, be deemed necessary to perform the duty of receiving packages designated for examination at the public stores, and of delivering the same after examination therefrom; and that all supplies shall be furnished by the collector on monthly estimates submitted by the appraiser to the Secretary of the Treasury, and approved by him; and all repairs and alterations needed in the public store and appraiser's department at said port of New York shall be made in like manner on the recommendation of the appraiser.

There shall be paid to the subordinate officers of the district of New York:

To the assistant collector, $5,000 per annum.

To the deputy collectors, each $4,000 per annum.

To the chief clerk of each division under a deputy collector, $2,500 per annum.

To the entry and liquidating clerks in the office of the collector of customs, each not to exceed $2,500 per annum.

And the annual compensation of other collectors, surveyors, and other officers and employés connected with the customs service not named herein, and not herein otherwise provided for, shall continue as fixed by existing law.

Mr. MITCHELL. I should like to inquire of the Senator from Ohio how much of the twenty-third section was included in his motion to strike out?

Mr. SHERMAN. The great body of it. Everything is stricken out except what relates to the ports of New York, San Francisco, and Boston.

The next amendment of the Committee on Finance was read, being to insert as section 25 the following:

That at the several ports of the United States where there are collectors, naval officers, surveyors, or appraisers, the subordinate officers and employés shall be appointed on the approval and at the discretion of the Secretary of the Treasury, on the nomination of the officer to whose office such subordinate officer or employé properly belongs.

Mr. HAMLIN. I ask the Senator from Ohio if it is wise to retain that section? You have by it a divided force; you have a force with no head to it. It is changing the entire practice of the Government. It seems to me the collector, who is the responsible officer, should be responsible for all these things; and that he should be the person, as he has been in all time, to make the nominations, and the Secretary of the Treasury to confirm them.

Mr. SHERMAN. I think there has been more complaint to us on this subject than almost any other. For instance, the naval officer and surveyor have many employés in their departments; and there is always more or less feeling between the officers on this account. Each head of a bureau in a great custom-house like that of New York feels that he ought to name his own subordinates, subject to the approval of the Secretary of the Treasury.

Mr. HAMLIN. I think there would be just as much propriety in saying that the Assistant Secretaries of the various Departments here should have the authority of appointing the subordinates of the De-

partments; or you might carry it a step further and say the head of each Bureau should select his own appointees, and not the head of the Department, to wit, the Secretary. It is changing the whole practice. It will produce confusion. It can do no possible good. The section ought not to be here. It should be stricken out.

Mr. CONKLING. I think it should be stricken out. I have never heard of any such jealousy between these officers.

Mr. SHERMAN. I am perfectly indifferent about it.

Mr. SARGENT. I move to strike out the section.

The PRESIDENT *pro tempore*. The amendment of the committee is to insert the section.

The amendment was rejected.

Mr. CONKLING. Now the section is stricken out.

The PRESIDENT *pro tempore*. Yes. The next amendment will be read.

The next amendment of the Committee on Finance was to insert the following as section 26:

That all fees, storage, or other moneys heretofore applicable to the compensation or emoluments of officers of the customs shall be paid into the Treasury, and return thereof shall be made to the accounting officers of the Treasury under such regulations as may be prescribed by the Secretary of the Treasury, and all expenses of collecting the revenue from customs shall be defrayed from the appropriation of that name, subject to the approval of the Secretary of the Treasury.

Mr. HAMLIN. That section should be stricken out. When the whole bill was here there was a propriety in having this section in, but nearly all the collection districts affected by this amendment have been stricken out of the twenty-third section, and the collectors derive a portion of their fees by which their compensation is made up from storage, and this section, unless all that was in the bill as reported be retained, should also come out.

Mr. SHERMAN. I think not.

Mr. HAMLIN. I think it should.

Mr. SHERMAN. I presume some of these fees enter into the compensation of collectors.

Mr. HAMLIN. They do; and where they get their little sums it helps them out.

Mr. SHERMAN. I suppose it is necessary to strike out that section; the fees form a part of the compensation of these collectors.

Mr. HAMLIN. I move to strike it out. It should not be there.

The PRESIDENT *pro tempore*. The question is on inserting the section reported as an amendment by the Committee on Finance.

The amendment was rejected.

The next amendment was to insert the following as section 27:

That the Secretary of the Treasury shall, from time to time, make such regulations as he may deem necessary for the conduct and management of the bonded warehouses, general-order stores, and other depositories of the imported merchandise throughout the United States; all regulations or orders issued by collectors of customs in regard thereto shall be subject to revision, alteration, or revocation by him; and no warehouse shall be bonded and no general-order store established without his authority and approval. And it shall be the duty of the Secretary of the Treasury, in granting permits to establish general-order warehouses, to require such warehouse or warehouses to be located contiguous, or as near as may be, to the landing-places of steamers and vessels from foreign ports; and that no officer of the customs shall have any personal ownership of or interest in any bonded warehouse or general-order store.

The amendment was agreed to.

The next amendment was to insert the following as section 28:

That public cartage of merchandise in the custody of the Government shall be subject to the regulations and approval of the Secretary of the Treasury.

The amendment was agreed to.

The next amendment was to insert the following as section 29:

That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed; that nothing herein contained shall affect existing rights, or prevent a distribution, in like manner as if this act had not been passed, in all cases where prosecution has been actually commenced.

Mr. BUCKINGHAM. I have received to day a telegram from the president of the board of trade of Boston and quite a number of telegrams from the city of New York from persons interested in this matter, suggesting that the last clause of this section is very objectionable in that it permits a certain distribution of moieties. I move to strike out that part of the section commencing in the second line with the word "that" down to the end.

Mr. CONKLING. It is in order to perfect the text before a motion is put to strike it out, I believe?

The PRESIDENT *pro tempore*. It is.

Mr. CONKLING. The telegrams to which the Senator has referred, although I know not from whom they come, let a large ray of light fall on this whole subject. I have heard it said a great many times that if this bill were not to apply to pending actions, much of the interest felt in it would disappear. I have been reluctant to believe the implication of that; but certainly any man who wants now to change the law as to pending suits opens his suggestion to a good deal of comment. I move to add to the section as it stands these words: "or in anywise affect suits or actions already commenced, or forfeitures already incurred;" my motive being only to make sure of the effect of the language as it is proposed by the committee, to the end that the statute of limitations which we have adopted and various other things in the bill may not be construed to apply at all to actions now pending.

The PRESIDENT *pro tempore*. The first question is on the amendment proposed by the Senator from New York.

Mr. CONKLING. I think I ought to say that there is no objection to this. I showed it to the Senator from Ohio and the Senator from Pennsylvania, and I think there is no objection to it.

The question being put on the amendment of Mr. CONKLING, the Chair declared that the noes appeared to prevail.

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

The yeas and nays were ordered.

Mr. THURMAN. I want to say one word on the amendment offered by the Senator from New York. As I understand it, a man might have committed the offense five years and eleven months ago, and in one month more the present statute, at the end of six years, would bar any prosecution; and now it is to be extended according to the effect of the amendment for three years more.

Mr. CONKLING. If my friend will pardon me, not at all. If the Senator turns back to the section to which he refers, he will find that it is to be three years from the time when the penalty was incurred. In such a case the Senator will see it would be barred already in two years more.

Mr. THURMAN. But if the Senator's amendment is that nothing in this act contained shall apply to any forfeiture already incurred or penalty already incurred——

Mr. CONKLING. Then it leaves it on the statute as it is?

Mr. THURMAN. Yes.

Mr. CONKLING. Precisely; that is just what I say it should do.

Mr. WASHBURN. I wish before voting on this amendment to say a word. I do not care very much about the fate of the amendment which the Senator from New York has offered; but if the text was amended in the last line so as to read "prosecutions which were actually commenced before January 1, 1874," I do not know that I should have any objection to it. So far as the protection of the Government is concerned, we want to do what we can to protect the Government. So far as any suits were commenced before this question was taken up in the other branch, and it was understood by persons who were to receive moieties that there was a prospect of this bill passing, I do not object to all those cases being retained; but I wish the Senate to understand that very many cases were entered for proceedings to be had without any knowledge in regard to them in order to save those cases from the operation of this bill. Very many of them have been entered within the last week or two very much in the same manner as the beneficiary of the Sanborn contract, as it was alleged, presented a list of different railroads over the country, so that if any case should be found against any of them it would be covered and controlled by his contract. It seems to me that if all the cases which were commenced previous to the inception of this legislation are excepted, it is sufficient. In other words, it should not be the desire of the Senate to encourage the very parties whom you propose to strike off by this bill in entering suits in order that they might make all the difficulty that was in their power after this legislation commenced.

Mr. CONKLING. Pardon me. Will it meet the Senator's view if I change my amendment so as to read thus: "or in anywise affect suits or actions commenced, or forfeitures incurred prior to May 1, 1874?" I take that date at the suggestion of another Senator.

Mr. SHERMAN. That goes back before the passage of the bill in the House.

Mr. CONKLING. And unless the purpose really be to cut off valid suits, I submit to the Senate that that covers the whole ground.

The PRESIDENT *pro tempore*. The amendment of the Senator from New York will be modified as he suggests.

Mr. CONKLING. Strike out "already" in both cases and add "previous to May 1, 1874," so as to read "or actions commenced or forfeitures incurred previous to May 1, 1874."

Mr. SCOTT. I hope the Senator from Massachusetts will accept that suggestion of the Senator from New York, for this reason: There are some causes of forfeiture which we have cut up by this bill; and my information is that in several quarters—I will not specify where—since it was apprehended that this bill would pass, very recent suits have been instituted to save cases of that character, which perhaps would not have been instituted had not this apprehension arisen. I think the suggestion of the Senator from New York is an entirely proper one, and I hope it will be accepted. It goes back far enough.

Mr. WASHBURN. I do not know that there were any cases commenced between January and May. I know that very many cases have been entered since this bill was reported to the Senate. I think it cannot be the desire of any one to encourage that kind of practice.

Mr. SHERMAN. May the 1st is long before the bill passed the House.

Mr. CONKLING. I wish to inquire of my friend from Pennsylvania whether he has information that any such recent suits have been commenced in the State of New York?

Mr. SCOTT. No; I have not any information that any have been commenced in the State of New York. I had information, and the Senator from Massachusetts seems to corroborate it, that a number have been recently commenced in the city of Boston.

Mr. CONKLING. I had heard this rumor and I asked the question because I have taken pains to inquire in respect of the port of New York, and I am advised that there is no instance of any recent suit commenced which would fall within the description to which these Senators have referred.

Mr. HOWE. This information strikes me as very interesting. Are we really assured that in the city of Boston a suit has been commenced to recover a penalty or a fine to the United States after distinct

notice was given that Congress did not mean to have fines and penalties collected at all? Is that the information? If that be so, are you doing your whole duty to the morals of the United States in simply saying that such a suit shall not be prosecuted to judgment? Ought you not to provide some penalties upon such a miscreant as one who should bring such a suit? I am a little overcome by this information.

Mr. WASHBURN. In order that there may be no misunderstanding I will say that I know nothing about suits in Boston or New York. I merely know that there are such rumors in regard to New York as well as Boston. I do not know that there is any foundation for them in either case. I only wish to have the amendment so that if any such attempts have been made the persons making them shall not profit by them.

Mr. THURMAN. Let the amendment be read.

The CHIEF CLERK. The amendment, as modified, is to insert at the end of the section:

Or in anywise affect suits or actions commenced or forfeiture incurred previous to May 1, 1874.

The PRESIDENT *pro tempore*. Upon this amendment the yeas and nays have been ordered.

The question being taken by yeas and nays resulted—yeas 27, nays 15; as follows:

YEAS—Messrs. Allison, Bayard, Bogy, Boreman, Boutwell, Carpenter, Chandler, Conkling, Conover, Ferry of Michigan, Flanagan, Gilbert, Hamlin, Hitchcock, Howe, Logan, Mitchell, Oglesby, Ramsey, Sargent, Scott, Sherman, Stewart, Thurman, Washburn, Windom, and Wright—27.

NAYS—Messrs. Alcorn, Buckingham, Cooper, Gordon, Hager, Hamilton of Maryland, Johnston, McCreery, Merrimon, Norwood, Ransom, Saulsbury, Stevenson, Stockton, and Wadleigh—15.

ABSENT—Messrs. Anthony, Brownlow, Cameron, Clayton, Cragin, Davis, Dennis, Dorsey, Edmunds, Fenton, Ferry of Connecticut, Frelinghuysen, Goldthwaite, Hamilton of Texas, Harvey, Ingalls, Jones, Kelly, Lewis, Morrill of Maine, Morrill of Vermont, Morton, Patterson, Pease, Pratt, Robertson, Schurz, Spencer, Sprague, Tipton, and West—31.

So the amendment of Mr. CONKLING was agreed to.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the Senator from Connecticut.

Mr. BUCKINGHAM. My motion is to strike out the amendment as perfected.

Mr. BAYARD. I ask for the yeas and nays on this motion.

The yeas and nays were ordered.

Mr. CONKLING. May we know what the amendment is?

The PRESIDENT *pro tempore*. The amendment is that of the Senator from Connecticut to strike out the whole section after the word "repeal" in line 2.

Mr. CONKLING. So as to have it act on all existing cases.

The question being taken by yeas and nays resulted—yeas 18, nays 22; as follows:

YEAS—Messrs. Alcorn, Bayard, Bogy, Buckingham, Cooper, Davis, Gordon, Hager, Hamilton of Maryland, Johnston, McCreery, Merrimon, Norwood, Ransom, Saulsbury, Stevenson, Stockton, and Thurman—18.

NAYS—Messrs. Allison, Boreman, Boutwell, Carpenter, Chandler, Conkling, Ferry of Michigan, Flanagan, Gilbert, Hamlin, Hitchcock, Howe, Logan, Mitchell, Ramsey, Sargent, Scott, Sherman, Stewart, Wadleigh, Washburn, and Windom—22.

ABSENT—Messrs. Anthony, Brownlow, Cameron, Clayton, Conover, Cragin, Dennis, Dorsey, Edmunds, Fenton, Ferry of Connecticut, Frelinghuysen, Goldthwaite, Hamilton of Texas, Harvey, Ingalls, Jones, Kelly, Lewis, Morrill of Maine, Morrill of Vermont, Morton, Oglesby, Patterson, Pease, Pratt, Robertson, Schurz, Spencer, Sprague, Tipton, West, and Wright—33.

So the amendment was rejected.

The PRESIDENT *pro tempore*. The question is on the amendment of the committee, as amended, inserting the section.

Mr. WADLEIGH. I move to insert after the words "existing rights" the words "of the United States," and to strike out all thereafter in that section.

Mr. SHERMAN. We have had a vote on that already.

Mr. WADLEIGH. No. The amendment proposed by the Senator from New York does not effect the purpose which it was intended to effect in the minds of the Senators present, as I understood.

Mr. CONKLING. Will the Senator point out why?

Mr. WADLEIGH. If the Clerk will reread the amendment it will appear to everybody.

The CHIEF CLERK. It is proposed to insert after the word "rights" the words "of the United States;" and then to strike out the words—

Or prevent a distribution, in like manner as if this act had not been passed, in all cases where prosecution has been actually commenced, or in anywise affect suits or actions commenced or forfeitures incurred previous to May 1, 1874.

Mr. CONKLING. Wherein does not that effect the Senate's purpose as it stands?

Mr. WADLEIGH. As I understood the purpose of the amendment offered by the Senator from New York it was to prevent these parties against whom the country has a just indignation from profiting by suits recently commenced by them for the purpose of obtaining moieties. The object of the amendment as I supposed was to prevent them profiting by those suits. Now, if the section is left as it stands without the amendment proposed by me, it will read thus:

That nothing herein contained shall affect existing rights or prevent a distribution in like manner as if this act had not been passed in all cases where prosecution has been actually commenced.

Then the Senator from New York adds an amendment which does not change the section as it stands so far as I have read, but which merely provides that it shall not affect suits brought after May 1, 1874. In my judgment that does not reach the difficulty. Perhaps I am mistaken, however.

Mr. SCOTT. If the words "before the 1st of May, 1874," were also inserted after the word "commenced," it would accomplish the purpose which the Senator from New Hampshire has, I think.

Mr. WADLEIGH. Yes; that would.

Mr. SCOTT. "Where prosecution has been actually commenced before the 1st of May, 1874," and make it apply to that as well as to the insertion made on the motion of the Senator from New York.

Mr. CONKLING. Does it not mean that now?

Mr. SCOTT. I thought at the time it did; but my friend from New Hampshire thinks not.

Mr. WADLEIGH. I think if my friend from Pennsylvania will carefully examine the amendment he will come to the same conclusion that I have arrived at.

Mr. SHERMAN. But we are striking at some people who the Senator from New Hampshire says are very bad, and endeavoring to create oppression; and yet we are also striking at some other people who, in the honest discharge of public duty under existing law, have actually expended money in a search of moieties. It seems to me that while we are cutting up a system by the root as a vicious and bad one, we ought not to deprive people who have under the law earned money of that which the law offered to them at the time they earned it.

Mr. WADLEIGH. If the Senator from New York will make the amendment to his amendment suggested by the Senator from Pennsylvania, I will withdraw the amendment offered by me; but if there is any one thing upon which the people of this country are determined, it is that the system pursued by Mr. Jayne and his coadjutors in matters of this kind shall be pursued no longer and that parties who after action by Congress on this matter was certain, commence suits at hap-hazard without evidence, just as was done in the case of the Sanborn contract, shall not profit by that action.

Mr. HOWE. Although they recover judgment?

Mr. WADLEIGH. Although they recover judgment.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New Hampshire.

Mr. CONKLING. What is the amendment? I do not quite get the idea of the Senator from New Hampshire.

Mr. WADLEIGH. It leaves the rights of the United States.

Mr. CONKLING. What are those rights?

Mr. WADLEIGH. The right to the penalties.

Mr. BOUTWELL. It does not distribute them to informers?

Mr. WADLEIGH. It does not.

Mr. CONKLING. What does it do with the statute of limitations? Is that one of the rights of the United States?

Mr. WADLEIGH. Certainly. Perhaps I do not understand the question, however.

Mr. CONKLING. If the Senator introduces an amendment that saves existing rights of the United States, I ask whether the statute of limitations will take hold of actions which were commenced three years and more after the penalty was incurred, although they may have been commenced a year or two ago?

Mr. WADLEIGH. The statute of limitations could not affect those actions already commenced, in my judgment.

Mr. CONKLING. Upon which section of the bill does the Senator found that statement?

Mr. WADLEIGH. Under this section the existing rights of the United States are not to be affected. When the United States have commenced a suit and thereby acquired a right to the penalty, they cannot be divested of it by a provision in a subsequent law which limits their right of action to a certain period of time.

Mr. CONKLING. Now I think I can put in a word all I want to say about this. The Committee on Finance, intending to prevent this being a retroactive provision, inserted the words "that nothing herein contained shall affect existing rights or prevent the distribution in like manner as if this act had not been passed in all cases where prosecution has been actually commenced." There the committee stopped, deeming that sufficient. Perhaps it was sufficient; but various persons have called my attention to the fact that that would not save in reality all the opportunities of those concerned in existing cases. Therefore I moved to amend, as changed in deference to the Senator from Massachusetts, by inserting the words "or in anywise affect;" so as to read: "That nothing herein contained shall in anywise affect suits or actions commenced or forfeitures incurred previous to May 1, 1874."

That, I submit, presents pure and simple the question whether the Senate intends that this shall be *ex post facto* applying it to criminal cases, or retroactive applying it to civil cases, or whether it shall speak from the 1st of May on. That is all there is of it. Where it would be left by the amendment of the Senator from New Hampshire I know not. I do not know how it would affect the statute of limitations. I have not looked at this bill to see how it would affect various things which are remedies as contradistinguished from rights. He says "existing rights." All lawyers know that all courts distinguish between the remedy and the right which the remedy pursues. Now if it should be held that although existing rights are saved remedies are affected, then we are hoist with our own petard. If we mean it shall not apply to suits commenced before a certain day, why not say so?

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New Hampshire.

Mr. BAYARD. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BAYARD. I understand the force of the amendment of the Senator from New Hampshire to be this: that the rights of the United States are reserved by his amendment; but he does object to any further perception of profits by informers under the moiety system. I hope that will be found to be the voice of the Senate.

The question being taken by yeas and nays, resulted—yeas 21, nays 20; as follows:

YEAS—Messrs. Alcorn, Bayard, Bogy, Cooper, Davis, Gordon, Hager, Hamilton of Maryland, Johnston, Jones, McCreery, Merrimon, Norwood, Oglesby, Ransom, Saulsbury, Stevenson, Stockton, Thurman, Wadleigh, and Washburn—21.

NAYS—Messrs. Allison, Boreman, Boutwell, Carpenter, Chandler, Conkling, Conover, Ferry of Michigan, Flanagan, Gilbert, Hamlin, Hitchcock, Howe, Mitchell, Ramsey, Sargent, Scott, Sherman, Stewart, and Windom—20.

ABSENT—Messrs. Anthony, Brownlow, Buckingham, Cameron, Clayton, Cragin, Dennis, Dorsey, Edmunds, Fenton, Ferry of Connecticut, Frelinghuysen, Goldthwaite, Hamilton of Texas, Harvey, Ingalls, Kelly, Lewis, Logan, Morrill of Maine, Morrill of Vermont, Morton, Patterson, Pease, Pratt, Robertson, Schurz, Spencer, Sprague, Tipton, West, and Wright—32.

So the amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. STEWART. I have not been in during the discussion of this bill, and I want an opportunity to reserve an amendment. I do not know in what form it came in, but there is a provision here that I want to get out in some way:

Which forfeiture shall only apply to the particular item of merchandise to which such fraud or alleged fraud relates; and anything contained in any act which provides for the confiscation of an entire invoice in consequence of any item or items contained in the same being undervalued, be, and the same is hereby, repealed.

I want to get rid of this provision and I want to vote on it.

Mr. THURMAN. We had the yeas and nays on that.

Mr. STEWART. I was not here.

Mr. BOUTWELL. I wish to submit one or two amendments. In the fourth section, in the thirteenth and fourteenth lines, I move to strike out the words "or submitting them to the officers of the revenue for examination." These words if retained will permit this course of action: that parties bringing in goods that are dutiable as personal luggage, offer the trunk or package to a custom-house inspector for examination, and if that inspector chooses, either from negligence or by the influence of corruption, to pass those goods, the Government will have no remedy to recover either the goods or any penalty. They might pursue him criminally, but otherwise would have no remedy whatever. If these words are stricken out, all parties importing goods would then be required to submit them to the custom-house for examination and entry, and in case they paid the duties through the intervention of an inspector they would of course be morally and legally relieved from all further application. I therefore hope the committee will consent to the amendment which I propose.

The PRESIDENT *pro tempore*. Is there objection to this amendment?

Mr. SHERMAN. I have none.

The PRESIDENT *pro tempore*. If there be no objection, the amendment is agreed to.

Mr. BOUTWELL. I ask the attention of the committee again to the last part of section 13 on page 9, by which a party who might be charged with having entered goods fraudulently would be permitted to take from the collector such goods as he might have in bond, giving therefor a personal bond to indemnify the Government for the loss that might be sustained for the damages that might be recovered by proceedings at law. It seems to me that when a party who is charged with a fraud has goods in possession of the collector, and as by the first clause of this section the collector is authorzed to hold those goods to indemnify the Government, he should not be permitted to take those goods away upon a personal bond, for any one who has had any experience in regard to custom-house matters is well aware that a party who will commit a fraud will give a bond on which it will be next to impossible to make a recovery. I therefore hope that so much of this section as authorizes parties so charged to give a bond will be stricken from the bill.

The PRESIDENT *pro tempore*. Does the Senator make any motion?

Mr. BOUTWELL. Yes, sir; I move to strike out the last sentence of section [11] 13, commencing with the word "but" in line 9, to the end of the section, in the following words:

But nothing herein contained shall prevent any owner or claimant from obtaining a release of such merchandise on giving a bond, with sureties satisfactory to the collector, or, in case of judicial proceedings, satisfactory to the court, or judge thereof, for the payment of any fine or fines so incurred: *Provided, however*, That such merchandise shall in no case be released until all accrued duties thereon shall have been paid or secured.

The PRESIDENT *pro tempore*. Is there objection to this amendment? The Chair hears none, and it is agreed to.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made as in Committee of the Whole.

Mr. CONKLING. I want to reserve at least one of those amendments. I refer now to the amendment last adopted before that moved by the Senator from Massachusetts, the amendment to section 29. There is another amendment which if I can put my eye upon it without detaining the Senate I will ask to reserve.

The PRESIDENT *pro tempore*. The Senator from New York in the Senate can move to insert the words again which were stricken out, without reserving the amendment here.

Mr. CONKLING. Then I reserve that one amendment because I do not want the words inserted and I do want the words inserted which I moved myself.

The PRESIDENT *pro tempore*. That is in the last section of the bill?

Mr. CONKLING. Yes, sir.

Mr. STEWART. I desire to reserve an amendment in section 12. I want to move to strike out all after the word "forfeited." There are several amendments in section 12, and I suppose I shall have to reserve them all so that the whole question will be open on that section.

Mr. SHERMAN. O, no; reserve the last amendment in the section.

Mr. STEWART. Very well; I will reserve the last amendment, after the word "forfeited" to the end of the section.

The PRESIDENT *pro tempore*. The first question is on concurring in the amendments agreed to in Committee of the Whole except those which have been reserved and specified.

The amendments were concurred in.

The first reserved amendment was in section [10] 12, lines 16, 17, and 18, to strike out the following words:

Liable to forfeiture, which forfeiture shall apply only to the particular item of merchandise to which such fraud, or alleged fraud, relates.

And to insert:

Forfeited; which forfeiture shall only apply to the particular item of merchandise to which such fraud or alleged fraud relates; and anything contained in any act which provides for the confiscation of an entire invoice in consequence of any item or items contained in the same being undervalued be, and the same is hereby, repealed.

So as to read:

And, in addition to such fine, such merchandise shall be forfeited; which forfeiture shall only apply to the particular item, &c.

Mr. STEWART. I believe this is a very dangerous provision. It has no reference to the moieties. You have stricken out all that relates to that subject. In my opinion there is nothing that tends so much to make people careful in the importation of goods as the provision that one fraudulent item shall vitiate the whole invoice, and there is reason for this. Remember that it must be done fraudulently. A person who is guilty of fraud in one part of an invoice is likely to commit many frauds in it, because, as a matter of fact, in practice only one package in ten is examined. Therefore if an importer should put laces in one box and the other boxes are filled with goods of no value, he stands ten chances to one to get them through the custom-house without paying a cent even as the law now stands, because there is not more than one chance in ten that they will fall upon that particular box or package. Now, having ten chances to one under the law as it stands, you propose to say by this bill to that importer, "If you get caught in that one chance in ten you will only forfeit the particular thing in which you are caught." If you are to say that nothing shall be forfeited but the particular thing that is caught, the particular item that is fraudulent, then you ought to make a provision for examining every package, or you will not get any revenue at all. It is a very common practice to put valuable goods in one class of boxes, and then through some means to have the officers only examine a certain box or package. They try all these chances, and frequently they get caught in that way. Now, if you take away that danger, and say that a man who has got a fraudulent invoice, if he has in any part of his invoice undertaken to defraud the revenue, the only penalty you will attach to it is the confiscation of that particular package or box where the fraud is detected, the chances for smuggling are increased tenfold.

It is said that the object of the bill is to cut off moieties, to cut off the improper seizure of goods, and to prevent the merchants from being annoyed; but in carrying out that object I do not think you ought to take away the chance of their suffering if they are willing to commit frauds and are detected in them. I do not suppose it is the real object to protect fraudulent importers and to give them more chances than they now possess. You have taken away many of the chances of detection, you have taken away your detective force, and now you want to take away the liability after detection has occurred in the custom-house, and after the man is caught in the fraudulent invoice, and you propose to say that he shall only forfeit that particular item. The inducement to smuggling will be increased, the chances for it will be increased, and the guards that will be exercised over the invoices will become less.

I recollect a case where there was the smuggling of opium on the ships of the Pacific Mail Steamship Line. The Chinese were in the habit of smuggling opium. Under the law the ship was liable to be forfeited for any acts of smuggling, and I recollect the exertions that were made by that company to prevent it. They had a special guard to watch those Chinamen and prevent them from smuggling, and the officers of the ship in doing that service were worth four times as much as all the officers of the Government; but if the only thing to be forfeited was to be the article smuggled, if they had no further interest in the matter, they would let it pass, perhaps connive at it.

Now you propose to repeal the law which would make the managers and officers of a ship responsible for any complicity in the smuggling of opium, and propose only to forfeit the little piece of opium that may be detected. You have repealed all that, as I understand. I have not had time to examine the bill thoroughly, but I believe that is the effect of it; and in that way you have opened the door very widely to smuggling. I hope I may be mistaken, but it strikes me that it is a great leak.

Mr. THURMAN. I have but a word to say on this amendment, for I do not want to detain the Senate. There are two objections to the present system of forfeiting the whole invoice. The first is that the punishment is monstrously disproportionate to the offense. The second objection to it is that there is no equality of punishment between different individuals who have committed the same offense. One man's invoice, as in a case that we have found in the testimony, amounting to more than $1,000,000, is liable to be forfeited, the entire amount of it, on the charge that some few items in that invoice the duties on which amounted to only a few hundred dollars had been improperly valued, improperly returned. There is a penalty of $1,000,000 and more inflicted upon that individual for precisely the same offense for which another man with an invoice of $50,000 worth of goods or $10,000 worth of goods would have only suffered the punishment of losing $10,000 or at most $50,000. You see there is no equality whatsoever in it. If the law said the forfeiture or penalty should be three times, four times, five times, ten times the amount of the smuggled goods or of the articles which were falsely undervalued, then there would be equality, and every man would be punished precisely alike; but to punish a man whose invoice is a million and a quarter to the whole extent of that invoice because there are found in it a few items amounting to a few thousand dollars undervalued or smuggled, if you choose, and to punish another man who has undervalued and smuggled precisely the same amount of items by forfeiture of only an invoice of $10,000, is manifest injustice, manifest want of equality, and in the first case the punishment is utterly disproportioned to the offense. I hope, therefore, that that amendment of the committee will be concurred in.

Mr. BOREMAN, (at seven o'clock and twenty minutes p. m.) I think it is manifest we cannot get through with this bill to-night. I therefore move that the Senate adjourn.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from West Virginia.

The motion was not agreed to.

Mr. STEWART. I should like to inquire of the chairman of the committee whether if it should be established that the officers of one of the Pacific Mail Steamship Company's ships were in complicity with the smuggling of opium, which is the particular smuggling business on that coast by the Chinese, the ship would be liable to forfeiture under this bill?

Mr. SHERMAN. It would now.

Mr. STEWART. But would it under this bill after you have repealed all the laws providing for a forfeiture?

Mr. SHERMAN. We have been discussing this bill the whole day; and I have been here since twelve o'clock without eating anything, and the Senator has been out all the afternoon, and now he comes in and wants to ask and wants me to answer him questions about it.

Mr. STEWART. I have been engaged in other duties. This looks to me to be a very dangerous section. I undertake to say that if you will go from Havana or Panama to New York, after this bill is passed, you will find cargoes of cigars there, and every man who goes off the ship will go off with a load of them. If one should get caught, only the little package that he carries is confiscated, and there will be no supervision on the part of the officers of the ship at all, and you will have cigars and opium and various things smuggled in open daylight before those officers, who are now the only guards and the only means of preventing it. The cigars at the isthmus are about as cheap as at Havana. If the officers of these ships, who now do more than the officers of customs in guarding against this thing, are relieved of that responsibility, you will find a big door open to smuggling.

I have said all I desire to say. I do not wish to occupy more time.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. STEWART. I should like to have the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 30, nays 7; as follows:

YEAS—Messrs. Alcorn, Allison, Bayard, Bogy, Boutwell, Conover, Cooper, Davis, Ferry of Michigan, Gilbert, Gordon, Hager, Hamilton of Maryland, Johnston, Lewis, McCreery, Merrimon, Mitchell, Norwood, Ransom, Saulsbury, Scott, Sherman, Stevenson, Stockton, Thurman, Wadleigh, Washburn, Windom, and Wright—30.

NAYS—Messrs. Carpenter, Chandler, Conkling, Jones, Oglesby, Sargent, and Stewart—7.

ABSENT—Messrs. Anthony, Boreman, Brownlow, Buckingham, Cameron, Clayton, Cragin, Dennis, Dorsey, Edmunds, Fenton, Ferry of Connecticut, Flanagan, Frelinghuysen, Goldthwaite, Hamilton of Texas, Hamlin, Harvey, Hitchcock, Howe, Ingalls, Kelly, Logan, Morrill of Maine, Morrill of Vermont, Morton, Patterson, Pease, Pratt, Ramsey, Robertson, Schurz, Spencer, Sprague, Tipton, and West—36.

So the amendment was concurred in.

The next reserved amendment was to insert as an additional section the following:

SEC. 29. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed; that nothing herein contained shall affect existing rights of the United States.

Mr. CONKLING. I move now to insert words which I am told by my friend on my left [Mr. SCOTT] are acceptable to the Senator who offered the pending amendment. As explained to me, his view is to make this section perfect. After the word "commenced" should occur the words "previous to May 1, 1874." Am I right in that?

Mr. WADLEIGH. Yes, sir.

Mr. CONKLING. Then I move to amend the section as it stands by adding words as I will read them. After the word "commenced" insert a comma and add "previous to May 1, 1874;" and then follow with the words as they stood in my amendment, to wit:

Or in anywise affect suits or actions commenced, or forfeitures incurred, previous to May 1, 1874.

So as to repeat the date and apply it more certainly than the original form would to all parts of the section.

The PRESIDENT *pro tempore*. Will the Senator from New York state his amendment again?

Mr. CONKLING. I move to amend the section as reported by the Committee on Finance by adding after the word "commenced" the words "previous to May 1, 1874," and then adding the words "or in anywise affect suits or actions commenced or forfeitures incurred." This I offer in lieu of my amendment, and also of the amendment of the Senator from New Hampshire, I being told by the Senator from Pennsylvania that it is satisfactory to him.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment as reported to the Senate from the Committee of the Whole, pending which the Senator from New York moves an amendment to it which will be read.

The CHIEF CLERK. It is proposed to strike out the words "of the United States."

Mr. WADLEIGH. If the words "of the United States" are stricken out, some court or other may construe the term "existing rights" to apply to the rights of informers. I do not propose to leave any loophole of that kind open, and I hope the amendment will not be made in that way.

Mr. ALCORN. If the words "of the United States" are stricken out, I will inquire whether there is any doubt that the courts would so construe it?

Mr. WADLEIGH. I think they would.

Mr. ALCORN. There can be no doubt about that, I think.

Mr. THURMAN. I want to understand this. That amendment does not include striking out the words "of the United States," does it?

Mr. CONKLING. It includes, the Senator will observe, the section precisely as he has it before him with these words added. It is the section as reported by the Finance Committee with the addition of these words. The words "of the United States" inserted there would change the meaning or might change it very seriously. Therefore I omit them and take the section just as the committee reported it, adding these words which I understand to be satisfactory.

The PRESIDENT *pro tempore*. The section reported by the Committee of the Whole terminates with the words "of the United States." The question is on that amendment. Pending that the Senator from New York moves to put in the place of those words the words in the printed bill plus the words he has stated.

Mr. BAYARD. I merely desire to state my understanding, which is that of the gentlemen around me. In case the amendment of the Senator from New York is now adopted, the result of the vote of the Senate sustaining the amendment of the Senator from New Hampshire will be lost, and by that vote a majority of the Senate declared themselves against the payment of any portion of fees and penalties for which suits have been instituted and are pending at this time to informers. Therefore if we desire, as I understand, to maintain the moneys which may flow from suits hereafter in the Treasury of the United States and not pay them for moieties, we shall reject the amendment of the Senator from New York.

Mr. WADLEIGH. Yes; and I want to say under this very bill, as I understand it, if any of these gentlemen have a just and equitable claim, that claim can be carried to the Secretary of the Treasury and settled by him. The object of my amendment is that there shall not be taken out of the Treasury of the United States money that belongs to the hard-working people of this country for the purpose of paying it over from the United States to these gentlemen who have made themselves odious to the people.

Mr. SHERMAN. I beg to correct the honorable Senator from New Hampshire in one particular. Section 4, to which he refers, which authorizes the Secretary of the Treasury to pay certain rewards for detecting and seizing goods, would relate solely to the future. It provides "that whenever"—as a matter of course that means hereafter—"any officer of the customs or other person shall detect and seize goods," &c. It will only operate in the future, and unless other words were inserted it would not authorize payment for services already rendered.

Mr. WADLEIGH. If that is so, then I would be in favor of letting these gentlemen bring their claims in and having their claims adjusted equitably, and I would not provide in this bill that they shall receive as a matter of right moieties from the United States upon the penalties which may be collected in the suits which have been commenced by them.

Mr. SCOTT. As the Senator from New York has referred to my understanding of the suggestion or agreement of the Senator from

New Hampshire, it is proper that I should state, after what the Senator from New Hampshire has said, that it is evident he misapprehended the proposition I made to him in reference to this amendment. I did suppose that it was his desire that the words suggested by the Senator from New York should be inserted after the word "commenced" and that the words "of the United States" should be taken out of the amendment.

Mr. CONKLING. The Senator so told me.

Mr. SCOTT. And believing that to be his understanding, I did so state to the Senator from New York. It is evident either that I misunderstood the Senator from New Hampshire, or that he misunderstood me.

Mr. WADLEIGH. That was a misapprehension, because if the words "of the United States" are stricken out, I understand the term "existing rights" would apply to the rights of these informers.

Mr. SARGENT. And allow distribution.

Mr. WADLEIGH. And allow distribution.

Mr. SARGENT. Will the Senator explain how he could allow the words to remain "or prevent a distribution in like manner as if this act had not been passed?"

Mr. WADLEIGH. I do not desire to have anything in this bill under which they may possibly go into the courts or go anywhere and get moieties.

Mr. SARGENT. Those are the words the Senator was willing should be restored, proposed by the Senator from New York.

Mr. WADLEIGH. If the term "existing rights" is confined to the rights of the United States, that is one thing. If the term "existing rights" is to apply to all existing rights, it may be held to apply to the rights of informers, and that I do not propose to assent to.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from New York.

Mr. CONKLING. Let us have the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 9, nays 22; as follows:

YEAS—Messrs. Allison, Carpenter, Conkling, Ferry of Michigan, Gilbert, Jones, Mitchell, Scott, and Sherman—9.

NAYS—Messrs. Alcorn, Bayard, Bogy, Cooper, Davis, Gordon, Hager, Hamilton of Maryland, Johnston, McCreery, Merrimon, Norwood, Oglesby, Ransom, Saulsbury, Stevenson, Stockton, Thurman, Wadleigh, Washburn, Windom, and Wright—22.

ABSENT—Messrs. Anthony, Boreman, Boutwell, Brownlow, Buckingham, Cameron, Chandler, Clayton, Conover, Cragin, Dennis, Dorsey, Edmunds, Fenton, Ferry of Connecticut, Flanagan, Frelinghuysen, Goldthwaite, Hamilton of Texas, Hamlin, Harvey, Hitchcock, Howe, Ingalls, Kelly, Lewis, Logan, Morrill of Maine, Morrill of Vermont, Morton, Patterson, Pease, Pratt, Ramsey, Robertson, Sargent, Schurz, Spencer, Sprague, Stewart, Tipton, and West—42.

The PRESIDENT *pro tempore*. There is no quorum voting.

Mr. SHERMAN. This bill remains as the unfinished business, I suppose, in the morning?

The PRESIDENT *pro tempore*. It does. Does the Senator move an adjournment?

Mr. SHERMAN. I do not see that there is any alternative.

The PRESIDENT *pro tempore*. The Senator from Ohio moves that the Senate do now adjourn.

The motion was agreed to; and (at seven o'clock and forty-seven minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *June* 9, 1874.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. G. BUTLER, D. D.

The Journal of yesterday was read and approved.

KANSAS COAT OF ARMS IN THE HALL.

Mr. COBB, of Kansas, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the architect of the Capitol be, and he is hereby, instructed to forthwith cause the coat of arms of the State of Kansas to be placed in its proper panel in the Hall of the House of Representatives.

Mr. COBB, of Kansas, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPORT OF COMMISSIONER OF EDUCATION.

Mr. MONROE, by unanimous consent, introduced a joint resolution (H. R. No. 110) to print the report of the Commissioner of Education; which was read a first and second time, under the law referred to the Committee on Printing, and ordered to be printed.

INTEREST OF THE UNITED STATES IN PUBLIC LANDS.

Mr. PRATT, by unanimous consent, introduced a bill (H. R. No. 3653) to protect the interest of the United States in certain public lands; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

RAILROAD LANDS IN WISCONSIN.

Mr. McDILL, of Wisconsin, by unanimous consent, introduced a bill (H. R. No. 3654) to quiet the title of settlers on certain railroad lands in the State of Wisconsin; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

JOHN MYERS.

Mr. ROBINSON, of Ohio, by unanimous consent, introduced a bill (H. R. No. 3655) granting a pension to John Myers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHESAPEAKE AND OHIO CANAL.

Mr. LOWNDES, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Secretary of War be directed to furnish this House with the supplemental reports of the engineers on the extension of the Chesapeake and Ohio canal.

PRINTING OF DEBATES.

Mr. DONNAN. I am directed by the Committee on Printing to submit a report relative to the cost of publishing the debates at the Government Printing Office and by the proprietors of the Globe, with the accompanying testimony. I move that the same be printed and recommitted to the committee. One of my colleagues on the committee, the gentleman from North Carolina, [Mr. WADDELL,] dissents from some of the conclusions of the committee. I understand he has left his views with the gentleman from Pennsylvania, [Mr. STORM,] and I ask that they be printed with the report of the majority.

Mr. STORM. I am requested by the gentleman from North Carolina [Mr. WADDELL] to submit his views with an accompanying resolution upon the subject of printing the debates.

The report, with the views of the minority, was ordered to be printed and recommitted.

REPORTS FROM THE COMMITTEE ON WAYS AND MEANS.

Mr. DAWES. I ask unanimous consent that the first hour after the reading of the Journal to-morrow may be given to the Committee on Ways and Means to make reports. We have not been called for some time.

Mr. RANDALL. With the understanding that all points of order are reserved.

Mr. DAWES. Of course.

No objection was made, and it was so ordered.

EASTERN AND WESTERN TRANSPORTATION COMPANY.

Mr. McCRARY, by unanimous consent, introduced a bill (H. R. No. 3656) to incorporate the Eastern and Western Transportation Company; which was read a first and second time, referred to the Committee on Railways and Canals, and ordered to be printed.

HENRY J. DRYSDALE.

Mr. RANDALL, by unanimous consent, introduced a bill (H. R. No. 3657) to remove the charge of desertion against the record of Henry J. Drysdale, late of Company E, Seventy-first Pennsylvania Volunteers; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. RANDALL. I ask that the committee have leave to report this bill at any time.

No objection was made, and it was so ordered.

CLERK OF COMMITTEE ON PENSIONS.

Mr. ARCHER. The Committee on Accounts have unanimously directed me to report the following resolution:

Resolved, That the compensation of the clerk of the Committee on Invalid Pensions shall be the same as that paid the clerk of the Committee on Claims.

Mr. DAWES. Is the House aware that the Committee on Claims has a clerk at a fixed salary, paid the year round?

Mr. ARCHER. The clerk of the Committee on Pensions is kept here the whole vacation fixing up bills for the Committee on Pensions. The Committee on Accounts have fully examined this matter, and they find that there are about six hundred cases that must be examined this summer. They think this is a very meritorious case.

Mr. GARFIELD. I would suggest that the object of this resolution can be accomplished only by legislation, not by resolution of the House.

Mr. ARCHER. Not to pay it out of the contingent fund of the House for committee clerks?

Mr. GARFIELD. You cannot pay the clerks of committees out of the contingent fund of the House; the law expressly forbids that. The provision must be put in a law, either on some appropriation bill or as a separate law.

Mr. DAWES. There are four clerks of committees who are paid a yearly salary. One of them, it seems to me, might as well come in under the general rule of daily compensation. In times past he had a great deal to do, but he has not much now. But at the present time there are only four committee clerks who receive regular annual salaries, the rest being paid a per diem.

Mr. GARFIELD. The question of fixing the salaries of all clerks whose pay is not fixed annually, fixing it uniformly for the two Houses, is now pending in a conference committee, and we hope to be able to arrive at some arrangement.

Mr. ARCHER. In that case I will withdraw this resolution for the present.

WILLIAM J. COITE.

Mr. DUNNELL, by unanimous consent, from the Committee on Claims, reported a bill (H. R. No. 3658) for the relief of William J. Coite; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

PERSONAL EXPLANATION.

Mr. SYPHER. Mr. Speaker, I ask unanimous consent to make a personal explanation, occupying not more than three minutes.

The SPEAKER. If there be no objection the gentleman will proceed. The Chair hears none.

Mr. SYPHER. The gentlemen who were yesterday allowed the privilege of the floor for the purpose of defending their claims to seats in this House saw proper to make an assault upon me personally, and indirectly upon the House for seating me upon my *prima facie* title, and argued that because the House had taken such action it must of necessity follow that as precedent in this case.

I was elected from the first district of Louisiana. The contestants here were candidates for the State at large. Therefore there can be no similarity between the two cases. Secondly, after I was seated upon my *prima facie* title the House opened the case for the purpose of taking testimony, and gave ninety days in which that testimony was to be taken under the statute. I went to my home and devoted my time—the forty days allotted me—to the examination of over fifty witnesses, whose testimony, now before the Committee on Elections, establishes my right to a seat in this House by over 3,000 majority. I state this in justification of the gentlemen who voted in this House to give me my seat upon my *prima facie* title.

CIRCUIT COURTS IN CALIFORNIA, OREGON, AND NEVADA.

Mr. POLAND. Mr. Speaker, there came over yesterday from the Senate a bill changing the time of holding some terms of court on the Pacific coast. The time for holding those courts is very near; and it is important the bill should be considered at once. I understand there is no objection to it. I ask unanimous consent that the bill be taken from the Speaker's table and considered now.

There being no objection, the bill (S. No. 881) fixing the times of holding the circuit courts of the United States in the districts of California, Oregon, and Nevada was taken from the Speaker's table, and read a first and second time. It provides hereafter a term of the circuit court of the United States for the districts of California, Oregon, and Nevada shall be held as follows: For the district of California, in the city of San Francisco, on the second Monday of March, July, and November of each year; for the district of Oregon, in the city of Portland, on the second Monday of April, August, and November of each year; and for the district of Nevada, in the city of Carson, on the second Monday of March, June, and October of each year.

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

Mr. POLAND moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LOUISIANA ELECTION CONTEST—SHERIDAN *vs.* PINCHBACK.

Mr. SYPHER. I call for the regular order.

The SPEAKER. The regular order being call for, the House resumes the consideration of the resolutions reported from the Committee on Elections in the case of Sheridan *vs.* Pinchback, from the State of Louisiana. The first question is upon the amendment offered yesterday by the gentleman from Louisiana, [Mr. DARRALL,] which will be read.

The Clerk read as follows:

Resolved, That P. B. S. Pinchback is entitled *prima facie* to a seat in this House as a member at large from the State of Louisiana, without prejudice to the claim of George A. Sheridan, contestant for said seat.

The amendment was not agreed to.

The SPEAKER. The question now recurs upon the resolutions offered by the minority of the Committee on Elections as a substitute for the resolutions of the majority.

The resolutions of the minority were read, as follows:

Resolved, That P. B. S. Pinchback was not elected as a member of the Forty-third Congress from the State of Louisiana at large.

Resolved, That George A. Sheridan was duly elected as a member of the Forty-third Congress from the State of Louisiana at large, and is entitled to a seat in this House as such member.

Mr. WOODFORD called for a division of the question upon the resolutions.

The question being taken on the first resolution, it was agreed to.

The question recurring on the second resolution,

Mr. SPEER. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 72, nays 145, not voting 72; as follows:

YEAS—Messrs. Archer, Arthur, Ashe, Atkins, Banning, Beck, Bell, Berry, Bland, Blount, Bowen, Bromberg, Brown, Buckner, Caldwell, John B. Clark, jr., Clymer, Cook, Cox, Creamer, Crittenden, Crossland, Durham, Eden, Eldredge, Fort, Giddings, Glover, Hamilton, Hancock, Henry R. Harris, John T. Harris, Hatcher, Hereford, Herndon, Hunton, Knapp, Lamar, Lamison, Leach, Magee, Marshall, McLean, Milliken, Mills, Morrison, Neal, Nesmith, Niblack, O'Brien, Perry, Randall, Read, James C. Robinson, Milton Sayler, John G. Schumaker, Sloss, Southard, Speer, Standiford, Storm, Swann, Vance, Wells, Whitehead, Whitehouse, Whitthorne, Willie, Wilshire, Ephraim K. Wilson, Wood, and John D. Young—72.

NAYS—Messrs. Albert, Averill, Barber, Barrere, Bass, Bradley, Buffinton, Bundy, Burchard, Burleigh, Benjamin F. Butler, Cain, Cannon, Cason, Cessna, Amos Clark, jr., Stephen A. Cobb, Coburn, Conger, Corwin, Cotton, Crocker, Crooke, Crounse, Crutchfield, Danford, Darrall, Dobbins, Donnan, Duell, Dunnell, Eames, Field, Foster, Freeman, Frye, Gooch, Gunckel, Hagans, Eugene Hale, Harmer, Benjamin W. Harris, Hathorn, Havens, John B. Hawley, Joseph R. Hawley, Hays, Gerry W. Hazelton, John W. Hazelton, Hendee, E. Rockwood Hoar, Hodges, Hooper, Hoskins, Houghton, Howe, Hubbell, Hunter, Hurlbut, Hyde, Hynes, Kasson, Kellogg, Killinger, Lamport, Lansing, Lawrence, Lawson, Lewis, Lofland, Loughridge, Lowe, Lowndes, Lynch, Martin, McCrary, Alexander S. McDill, James W. McDill, MacDougall, Merriam, Monroe, Moore, Morey, Nunn, Orth, Packard, Packer, Page, Isaac C. Parker, Parsons, Pendleton, Pierce, Pike, Thomas C. Platt, Purman, Rainey, Ransier, Rapier, Ray, Rice, Richmond, Ellis H. Roberts, James W. Robinson, Ross, Rusk, Sawyer, Henry J. Scudder, Isaac W. Scudder, Sener, Sessions, Shanks, Sheats, Sheldon, Sloan, Small, Smart, A. Herr Smith, H. Boardman Smith, J. Ambler Smith, Snyder, Sprague, Stanard, Starkweather, Strait, Strawbridge, Sypher, Thornburgh, Todd, Townsend, Tremain, Tyner, Waldron, Wallace, Walls, Jasper D. Ward, Marcus L. Ward, Wheeler, Whiteley, Charles W. Willard, Charles G. Williams, John M. S. Williams, William Williams, William B. Williams, James Wilson, and Woodford—145.

NOT VOTING—Messrs. Adams, Albright, Barnum, Barry, Begole, Biery, Bright, Burrows, Roderick R. Butler, Freeman Clarke, Clayton, Clements, Clinton L. Cobb, Comingo, Curtis, Davis, Dawes, DeWitt, Elliott, Farwell, Garfield, Robert S. Hale, Harrison, Hersey, George F. Hoar, Holman, Jewett, Kelley, Kendall, Luttrell, Maynard, McJunkin, McKee, McNulta, Mitchell, Myers, Negley, Niles, O'Neill, Orr, Hosea W. Parker, Pelham, Phelps, Phillips, James H. Platt, jr., Poland, Potter, Pratt, Robbins, William R. Roberts, Henry B. Sayler, Scofield, Sherwood, Lazarus D. Shoemaker, George L. Smith, John Q. Smith, William A. Smith, Stephens, St. John, Stone, Stowell, Taylor, Charles R. Thomas, Christopher Y. Thomas, Waddell, White, Wilber, George Willard, Jeremiah M. Wilson, Wolfe, Woodworth, and Pierce M. B. Young—72.

So the resolution was not adopted.

During the roll-call,

Mr. PARKER, of New Hampshire, stated that he was paired with Mr. POLAND, who if present would vote in the negative, while he himself would vote in the affirmative.

Mr. SAYLER, of Indiana, stated that he was paired with Mr. STONE, of Missouri, who if present would vote in the affirmative, while he himself would vote in the negative.

The vote was then announced as above recorded.

Mr. HAWLEY, of Illinois. I desire to reconsider the vote by which the House adopted the resolution that Mr. P. B. S. Pinchback was not elected as a member of the Forty-third Congress from the State of Louisiana at large. I think that resolution was adopted under a misapprehension of the facts. The committee have reported that neither gentleman was elected, and in an additional resolution they reported that both shall have leave to take further testimony. If the resolution be adopted that Mr. Pinchback is not elected, it will preclude him of course from taking further testimony. I therefore move to reconsider the vote by which that resolution was adopted.

The SPEAKER. The gentleman from Illinois moves to reconsider the vote by which the House adopted the resolution reported from the minority of the committee that Mr. Pinchback was not elected.

Mr. HAWLEY, of Illinois. The adoption of that resolution precludes him from taking further testimony according to the report of the majority of the committee.

The SPEAKER. The Chair has been informed by several gentlemen that they did not understand the vote when it was submitted to the House.

The motion to reconsider was agreed to.

The question next recurred on the adoption of the resolution; which was read, as follows:

Resolved, That P. B. S. Pinchback was not elected as a member of the Forty-third Congress from the State of Louisiana at large.

Mr. ELDREDGE demanded the yeas and nays.

The yeas and nays were ordered.

Mr. SMITH, of New York. I ask unanimous consent to make an explanation.

Mr. BECK. I object.

Mr. ELDREDGE. Elect him now if you choose.

The question was then taken, and decided in the negative—yeas 94, nays 121, not voting 74; as follows:

YEAS—Messrs. Archer, Arthur, Atkins, Banning, Beck, Bell, Berry, Bland, Blount, Bowen, Bromberg, Brown, Buckner, Caldwell, John B. Clark, jr., Clymer, Cook, Cox, Creamer, Crittenden, Crocker, Crooke, Crossland, Crounse, Crutchfield, Davis, Durham, Eden, Eldredge, Fort, Freeman, Giddings, Glover, Gunckel, Hamilton, Hancock, Benjamin W. Harris, Henry R. Harris, John T. Harris, Hatcher, Hereford, Herndon, Hunton, Kasson, Kellogg, Kendall, Knapp, Lamar, Lamison, Lamport, Leach, Lofland, Luttrell, Magee, Marshall, McLean, Milliken, Mills, Moore, Morrison, Neal, O'Brien, Hosea W. Parker, Pendleton, Perry, Pierce, Randall, Read, Rice, James C. Robinson, Milton Sayler, John G. Schumaker, Sener, Sheats, Sloss, J. Ambler Smith, Southard, Speer, Standiford, Storm, Swann, Vance, Wells, White, Whitehead, Whitehouse, Whitthorne, Charles W. Willard, Willie, Ephraim K. Wilson, James Wilson, Wood, Woodford, and John D. Young—94.

NAYS—Messrs. Albert, Averill, Barber, Barrere, Bass, Biery, Bradley, Buffinton, Burchard, Burleigh, Burrows, Benjamin F. Butler, Cain, Cannon, Cason, Cessna, Amos Clark, jr., Clements, Stephen A. Cobb, Coburn, Conger, Cotton, Darrall, Dobbins, Donnan, Duell, Dunnell, Eames, Field, Foster, Frye, Gooch, Hagans, Harmer, Harrison, Hathorn, Havens, John B. Hawley, Joseph R. Hawley, Hays, Gerry W. Hazelton, John W. Hazelton, Hendee, E. Rockwood Hoar, Hodges, Hooper, Hoskins, Houghton, Howe, Hubbell, Hunter, Hurlbut, Hyde, Lawrence, Lawson, Lewis, Loughridge, Lowe, Lowndes, Lynch, Martin, Alexander S. McDill, James W. McDill, MacDougall, Merriam, Monroe, Morey, Myers, Nunn, Orr, Orth, Packard, Packer, Page, Isaac C. Parker, Parsons, Pike, James H. Platt, jr., Thomas C. Platt, Purman, Rainey, Ransier, Rapier, Ray, Richmond, Ellis H. Roberts, James W. Robinson, Ross, Rusk, Sawyer, Henry J. Scudder, Isaac W. Scudder, Sessions, Shanks, Sheldon, Sloan, Small, Smart, A. Herr Smith, George L. Smith, H. Boardman Smith, Snyder, Starkweather, Stowell, Strait, Strawbridge, Sypher, Thornburgh, Todd,

Townsend, Tremain, Waddell, Wallace, Walls, Jasper D. Ward, Marcus L. Ward, Whiteley, Charles G. Williams, John M. S. Williams, William Williams, and William B. Williams—121.

NOT VOTING—Messrs. Adams, Albright, Ashe, Barnum, Barry, Begole, Bright, Bundy, Roderick R. Butler, Freeman Clarke, Clayton, Clinton L. Cobb, Comingo, Corwin, Curtis, Danford, Dawes, DeWitt, Elliott, Farwell, Garfield, Eugene Hale, Robert S. Hale, Hersey, George F. Hoar, Holman, Hynes, Jewett, Kelley, Killinger, Lansing, Maynard, McCrary, McJunkin, McKee, McNulta, Mitchell, Negley, Nesmith, Niblack, Niles, O'Neill, Pelham, Phelps, Phillips, Poland, Potter, Pratt, Robbins, William R. Roberts, Henry B. Sayler, Scofield, Sherwood, Lazarus D. Shoemaker, John Q. Smith, William A. Smith, Sprague, Stanard, Stephens, St. John, Stone, Taylor, Charles R. Thomas, Christopher Y. Thomas, Tyner, Waldron, Wheeler, Wilber, George Willard, Wilshire, Jeremiah M. Wilson, Wolfe, Woodworth, and Pierce M. B. Young—74.

So the resolution was rejected.

During the roll call,

Mr. SAYLER, of Indiana, stated that he was paired with the gentleman from Missouri, Mr. STONE, who would vote in the affirmative, while he himself would vote in the negative.

The vote was then announced as above recorded.

The question next recurred on the adoption of the following resolutions reported from the majority of the committee:

Resolved, That the evidence in this case is not sufficient to establish the right of either P. B. S. Pinchback or George A. Sheridan to a seat in this House as a Representative at large from the State of Louisiana.

Resolved, That Mr. Sheridan have leave to amend his notice of contest, if he shall so elect, serving upon Mr. Pinchback his amended notice within twenty days hereafter; that Mr. Pinchback have liberty to answer such amended notice within forty days hereafter, and that, upon the service of such answer, the evidence of the respective parties be taken, under the existing laws of Congress in such case made and provided; and that in case of default of an answer to such amended notice, Mr. Sheridan be at liberty to take testimony *ex parte*; and in case of default to serve an amended notice of contest, Mr. Pinchback may serve a notice of contest, as provided by law, within forty days hereafter, and take testimony in like manner.

The resolutions were adopted.

Mr. SMITH, of New York, moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GENEVA AWARD.

Mr. BUTLER, of Massachusetts. I desire to report from the Committee on the Judiciary a substitute for the act (S. No. 7) for the creation of a court for the adjudication and disposition of certain moneys received into the Treasury under an award made by the tribunal of arbitration constituted by virtue of the first article of the treaty concluded at Washington the 8th of May, A. D. 1871, between the United States of America and the Queen of Great Britain, and I ask that the substitute only be read.

Mr. SPEER. Does the reporting of this bill supersede the special order, which is reports of the Committee on Expenditures in the Department of Justice?

The SPEAKER. That cannot be called up for some fifteen minutes yet.

Mr. SPEER. But will this bill supersede that special order when the hour shall arrive?

The SPEAKER. This will have to give way at the hour fixed for the special order.

Mr. BUTLER, of Massachusetts. I ask that the substitute be read.

The Clerk read the substitute, as follows:

An act to provide for a just and equitable distribution of the moneys paid in pursuance of the award made to the United States by the commissioners at Geneva, under the treaty of Washington.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That out of the money paid by the government of Great Britain in satisfaction of the award of the arbitration at Geneva under the treaty of Washington, indemnification to the United States and citizens thereof, and corporations organized under the laws thereof, or the laws of the several States and Territories therein, shall be established and paid from the Treasury, in the manner hereinafter provided, to the following classes of claimants, in the manner following:

First. For all loss, destruction, or damage by any confederate cruiser for whose acts the Government of the United States have made demand upon the government of Great Britain, done to or suffered by all such corporations and citizens of the United States, actual owners of property at the time of its destruction, whether ships or cargoes, outfit, advanced or other wages paid to officers and seamen, or freights actually earned.

To the officers and crews, being citizens aforesaid, all the wages which had been actually earned by them, up to the time of the capture, loss, or destruction of any vessel by such cruisers, together with the individual property of each respectively captured and lost or destroyed in the vessel so captured, who have not received the insurance thereupon; and to such officers and crews, or to any person on board either of said vessels, an indemnity for damages actually sustained from such capture or detention, and the amount expended in returning to their homes, or the place where they engaged in business or took employment, respectively, not including any prospective profits or wages, not earned at the time of capture, or which had been theretofore paid them.

To the United States, for all vessels the property of the Government or which were under charter to the United States, and for the destruction or loss of which the United States by the terms of the charter party was liable, which were captured and destroyed and lost by said cruisers, together with the property of the United States on board, and the same indemnity to the officers and crews of said vessels, respectively, as hereinbefore provided in case of capture of private vessels, except any losers insured in part or in whole for the property so lost, in which case the indemnity shall be made only for the loss beyond the sum received by the loser from such insurance.

To all insurers, being citizens or corporations of the United States, respectively, having insured or reinsured property so destroyed, who shall show, by an exhibit of their books of account and business, or otherwise, that the war premiums actually received by them did not equal in amount the losses paid by them because of property thereafterward captured and lost or destroyed by either or all of said cruisers: *Provided*, That no insurer shall have any claim or right in the claims of any assured herein provided for because of any assignment, either in law or in fact, unless such assignee had actually paid a just and adequate consideration therefor other than underwriting the policy or settling or paying any loss claimed by the assured.

Secondly. To all such corporations or citizens as aforesaid who had paid a premium for war risks on vessels and cargoes, freights, or other property therein, after the sailing of either of said cruisers, to the amount of such extra or war premiums only, paid by them, whether they suffered loss by capture of their vessels and property or otherwise by said cruisers: *Provided*, That mutual insurance companies who have paid a loss shall be indemnified for the same such indemnity to be divided among its members who contributed to pay such loss at the time; but no member of any mutual insurance company shall be indemnified for any war premium paid in such company: *Provided further*, That no claim for premiums paid for war risks which has been heretofore or may hereafter be assigned or transferred to any person, in whole or in part, or on which any lien or interest is secured in any way, shall be allowed by the court before which such claim is made; and the claimant thereof shall, in addition to his statement of his claim as hereinafter provided, declare under oath that there is no lien or claim thereon, and that no sale or transfer thereof has been made either in whole or in part; and upon proof made to the satisfaction of the court that any lien has been put thereon, or that any assignment or transfer has been made of any such claim, the same shall not be allowed; and upon proof being made to the satisfaction of the Secretary of the Treasury of any such lien, transfer, or assignment prior to issuing the warrant therefor, he shall stop the payment of any judgment thereon.

SEC. 2. That in ascertaining the losses so suffered no account shall be taken of prospective profits, or of freight not then earned, or of profits of charter-parties not then fulfilled, save that where any vessel carrying freight or passengers, or bound on a fishing or whaling voyage, had partly performed her voyage only at the time of such capture, destruction, or loss, the portion of the passage-money and freight which would have been, if the voyage had been carried out, then earned or accrued respectively, or the portion of the actual expense of such voyage, in ratio to the part of the passage or cruise to be performed at the time of such capture, only shall be allowed, deducting the portion of provisions and outfit then expended. In ascertaining the amount of such losses, the memorials, affidavits, depositions, and any other papers in the several cases of losses claimed respectively, now filed in the State Department, or official copies thereof, may be read in evidence: *Provided*, That no affidavit shall be read except where it appears to the satisfaction of the tribunal that the affiant cannot be produced before it as a witness or his testimony taken by a commission upon interrogatories; and in the hearing of the cause, any party claiming shall produce all books, papers, letters, and documents that may be called for by a general description thereof by any opposing party, or satisfactorily account for their loss or non-production, or suffer such judgment as is prescribed in section 15 of the act entitled "An act to establish the judicial courts of the United States," approved September 29, 1789; and on the hearing of the cause, any competent evidence may be produced by either party, either *viva voce* or by deposition taken upon interrogatories; and for this purpose depositions may be taken by either party *de bene*, or the court may admit affidavits where it is satisfactorily shown that the witness cannot be produced or his examination by interrogatories and cross-examination cannot be had.

SEC. 3. That within sixty days after the passage of this act the Attorney-General of the United States shall file in the circuit court of the United States, in a circuit to be designated by the President, a bill in equity, in the nature of a bill of interpleader, which shall state, if any, what claim on said money paid upon said award is made by the Government of the United States for losses or damages, with a concise statement of the facts, grounds, and nature of such claims, respectively; and also that the United States hold the money paid by Great Britain in pursuance of said award, and the interest accruing thereon, subject to the just claim of all persons and corporations entitled thereto, under the provisions and limitations set forth in this act, and not otherwise. All persons, companies, or corporations who have already filed claims in the State Department for losses or damages caused by either of said cruisers shall be named as defendants in said bill, and that they claim severally to be entitled to portions of the said money, but the particulars of their several claims need not be set forth. And notice of the commencement and pendency of such bill shall be given by publishing the substance thereof in one public newspaper in each State and Territory at least once a week for three months successively. And such notice shall state the day of filing such bill, and that every person, company, or corporation claiming to be entitled to any part of said fund, and desiring to appear and become a party thereto to assert such claim, is required to enter an appearance therein within six months from the filing of such bill. And each and every person, company, or corporation, whether named as a defendant in said bill or not, who shall not enter an appearance thereto within said six months, shall be forever barred of all right or claim in or to any part of said award: *Provided, however*, That the court may allow, within thirty days thereafter, any party to enter an appearance upon proper cause showing that such party was prevented therefrom by fraud, accident, or mistake.

SEC. 4. That every person, company, or corporation who shall, within six months after the filing of said bill, appear and claim to be entitled to any part of said award shall be admitted as a party defendant therein; and within two months after the expiration of said six months, every claimant to any part of said award who has duly entered as a defendant in said cause shall file in said court a statement, under oath of the party or his duly authorized agent, giving concisely and clearly the facts and grounds of his claim, and the amount thereof, together with such exhibits as he may be advised, which statement and the exhibits shall be in print, and twenty copies thereof filed in said courts: *Provided*, That those persons named as defendants and claimants in the bill may file such statement of their claims at any time after said bill is filed, and before the expiration of said six months, at their option.

SEC. 5. That immediately after the filing of such statement of claim by any claimant, the court shall fix a reasonable time for such claimant to take and file his evidence in support thereof, and shall allow the Government reasonable time to take and file evidence in opposition thereto; and any claimant shall be allowed to file evidence in opposition to any claim made by the United States to any part of such fund; and all testimony shall be taken in the manner and according to the practice of the court in equity causes, subject to the provisions of the second section of this act.

SEC. 6. That when the evidence is closed upon any claim, the court shall hear and determine the same in accordance with the provisions of this act; and in all its proceedings herein the court shall be governed by the rules of practice of courts of equity of the United States so far as the same may be applicable.

SEC. 7. That whenever more than $5,000 of any claim shall be disallowed by the court, the claimant, within thirty days, but not afterward, may appeal to the Supreme Court of the United States; and whenever any claim exceeding $5,000 shall be allowed, the United States shall have the same right of appeal; and if any claim shall be allowed in favor of the United States exceeding $5,000, any claimant, or any number of claimants jointly, may appeal therefrom; and all appeals shall be taken according to the law and rules governing appeals in equity from the circuit to the Supreme Court, but only so much of the record of the circuit court contained in the bills, pleadings, and evidence as may pertain to the claim in the judgment appealed from shall be sent up. Upon the allowance of any such appeal, it shall pass immediately to the Supreme Court for hearing, without awaiting the decision of other claims; and such appeal shall not delay proceedings in the circuit court upon other claims filed in the cause: *Provided, however*, That the death of any defendant shall not work a discontinuance of any part of the proceedings, but the legal representative may appear and prosecute his claim within such time as the court may order.

SEC. 8. That all appeals from the allowance or disallowance of such claims shall be entered at the term of the Supreme Court next after such appeal; and the Supreme Court shall give them precedence of other causes in said court, so far that they shall, if practicable, be heard at the term they are entered; and the decision of the Supreme Court shall be certified back to the court from which the appeal was taken.

SEC. 9. That when the time shall have expired in which any claim can be filed ni said court, the judge shall certify a list of all such claims, showing in detail the gross amounts thereof, to the Secretary of State, who shall cause a certified copy of such lists to be filed with the Secretary of the Treasury.

SEC. 10. That whenever final judgment shall be rendered in the circuit or Supreme Court in favor of any claimant, a certified copy thereof shall be issued to the claimant, and a like copy be filed in the State Department.

SEC. 11. That in case any judgment is rendered by a circuit court for indemnity for any loss or claim hereinbefore mentioned against the United States at the time of the giving of the judgment, the circuit court shall, upon motion of the attorney or counsel for the claimant, allow, out of the amount thereby awarded, such reasonable counsel and attorney fees to the counsel and attorney employed by the claimant or claimants respectively as the court shall determine is just and reasonable, as compensation for the services rendered the claimant in prosecuting such claims, which allowance shall be entered as part of the judgment in such case, and shall be made specifically payable as a part of said judgment for indemnification to the attorney or counsel, or both, to whom the same shall be adjudged; and a warrant shall issue from the Treasury in favor of the person to whom such allowance shall be made respectively, which shall be in full compensation to the counsel or attorney for prosecuting such claim; and all other liens upon, or assignments, sales, transfers, either absolute or conditional, for services rendered or to be rendered about any claim or part or parcel thereof provided for in this bill heretofore or hereafter made or done before such judgment is awarded and the warrant issued therefor, shall be absolutely null and void and of none effect.

SEC. 12. That in estimating the compensation to claimants, interest shall be allowed at the rate of 5 per cent. per annum upon the amount of actual loss or damage which shall be adjudicated in each case to have been sustained, from the date of the award of the arbitrators at Geneva.

SEC. 13. That the President may designate a counselor at law, admitted to practice in the Supreme Court of the United States, to appear as counsel on behalf of the United States and represent the interest of the Government in said suit and in all claims filed for indemnity for losses, as provided by this act, subject to the supervision and control of the Attorney-General. Such counsel shall receive for his services and expenses such reasonable allowance in each claim as may be approved by the court, to be apportioned in each claim adjudicated, and paid from said award upon the certificate of the judge.

SEC. 14. That if the amount of all claims filed in said cause shall not exceed the amount of said award, all the judgments of said court when final, or of the Supreme Court, shall be paid as soon as certified; but if it shall appear that the gross amount of said claims so filed, with the interest and costs thereof as herein provided, shall exceed the whole amount of said award and interest, then the judgments on the first class of claims hereinbefore set forth only shall be paid in full when certified; and of the judgments upon claims of the second class hereinbefore provided 50 per cent. only shall be paid upon certificates thereof until all of said claims so filed in court shall be determined and go into final judgment, when the remainder of the money paid on said award and the accrued interest shall be divided *pro rata* among said judgment claimants, but not to exceed the full amount of their said judgments, with interest thereon up to the time of the rendition thereof.

SEC. 15. That when it shall appear to the Secretary of the Treasury by the certificate of the court, under the seal thereof, that a final judgment has been rendered in favor of a claimant, he shall issue his warrant for the payment of the same out of any money in the Treasury not otherwise appropriated; and the Secretary of the Treasury is hereby authorized, from time to time, to sell in the market, after the notice, or cancel, at his election, such amount of the bonds of the United States in which such award paid by the government of Great Britain has been invested as will reimburse the Treasury for the amounts paid upon such judgments, or the United States for the amount of any judgment that may be recovered in favor of the United States against the money so paid; and after all judgments issued upon said losses and claims have been paid and satisfied, then it shall be the duty of the Secretary of the Treasury to cancel the remainder of said bonds, and cover the money secured thereby into the Treasury of the United States.

Mr. BUTLER, of Massachusetts. I enter a motion to recommit the bill and allow an amendment, which the gentleman from Maine [Mr. FRYE] desires to offer, to be pending.

Mr. FRYE. I offer the following amendment:

Strike out on page 14, line 64, these words:

Provided, That mutual insurance companies who have paid a loss shall be indemnified for the same, such indemnity to be divided among its members who contributed to pay such loss at the time; but no member of any mutual insurance company shall be indemnified for any war premium paid in such company.

Mr. TREMAIN. The committee has given no permission to allow that amendment to be offered. Is it in order?

The SPEAKER. It does not depend on the permission of the committee.

Mr. POLAND. I desire to offer an amendment.

Mr. TREMAIN. Am I to understand that no amendments can be received unless the chairman of the committee allows them?

The SPEAKER. The chairman of the committee enters a motion to recommit the bill and intimates that he will allow the amendment of the gentleman from Maine [Mr. FRYE] to be pending. The Chair will rule on the questions in regard to amendments when they come up.

CONGRESSIONAL ELECTIONS.

Mr. TREMAIN. I ask unanimous consent to report back from the Committee on the Judiciary the bill (H. R. No. 1979) to preserve the ballots cast and all the papers connected with elections held for Delegates to Congress, and for other purpose, and to move that the bill be printed and recommitted. And I give notice that on Saturday next I will move to suspend the rules to put the bill on its passage.

Mr. COX. I object.

Mr. TREMAIN. The motion is merely to print and recommit.

Mr. COX. Let it be on the condition that it is not to be brought back on a motion to reconsider.

The bill was ordered to be printed and recommitted to the Committee on the Judiciary, not to be brought back on a motion to reconsider.

ORDER OF BUSINESS.

The SPEAKER. By order of the House, made under a suspension of the rules, the gentleman from Virginia, [Mr. SENER,] the chairman of the Committee on Expenditures in the Department of Justice, is entitled to the floor to report certain bills.

MIDDLE DISTRICT OF ALABAMA.

Mr. SENER. I yield to my colleague on the committee, the gentleman from Kentucky, [Mr. DURHAM,] to offer a resolution which will not give rise to any discussion.

Mr. DURHAM. The Attorney-General, in his annual report, calls attention to the fact that the clerk of the district court for the middle district of Alabama has failed to settle his semi-annual accounts; and on the 26th day of March a resolution was adopted by the House instructing the Committee on Expenditures in the Department of Justice to investigate that matter. The committee have investigated it, and they ask the House to adopt the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the Attorney-General be, and he is hereby, directed to institute legal proceedings against E. V. C. Blake, the clerk of the middle district of Alabama, and his sureties on his bond, for the recovery of whatever sum may be due and owing by said Blake to the United States as clerk aforesaid.

Mr. DURHAM. I will simply state that the report of the committee, made after an investigation of the matter, shows that this clerk is indebted to the Government of the United States about $12,000; and the Attorney-General desires some instruction, as to how he shall proceed to recover the money. I ask the adoption of that resolution.

There was no objection, and the resolution was adopted.

Mr. DURHAM moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WESTERN DISTRICT OF ARKANSAS.

Mr. SENER. Mr. Speaker, it is well known that since the 16th day of February the Committee on Expenditures in the Department of Justice have had under consideration the expenditures in the western district of Arkansas. After two or three months of patient and laborious investigation the committee have presented a report, which will be found in the document-room, Report No. 626, and have instructed me to report in connection therewith three bills and one resolution. I will first call up the bill No. 3621 for consideration.

The bill (H. R. No. 3621) to abolish the western district of Arkansas, and for other purposes, was read. It proposes to abolish the western district of Arkansas and to annex the territory constituting the same to and make it a part of the eastern district of Arkansas, to all intents and purposes whatsoever; said districts hereafter to constitute one district, to be known and designated as the district of Arkansas. The bill further provides that all causes, proceedings, and records now pending in or pertaining to the judicial business of said late western district of Arkansas shall be held, entered, kept, tried, and disposed of by the proper courts and judges for said eastern district in the same manner and to the same effect as if they had been originally commenced, proceeded with, or determined therein. And until further provision shall be made by law, courts shall be held at the same places and at the same times now provided by law in the said State; and all the judicial power now exercised by the district court for said late western district of Arkansas in respect to causes and matters arising in the Indian Territory are hereby conferred upon the district court for said eastern district; and it shall be the duty of the marshal for said eastern district to take possession of, and hold as part of the records and documents of said court, all records, files, papers, and other official documents now appertaining to the office and business of the marshal of said western district; but the clerks and clerks' office of said western district, and the records, dockets, files, papers, and official documents now appertaining to the office and business of the clerks shall be and remain as they are on the day before this act goes into effect, until otherwise ordered by the circuit and district judges for the district of Arkansas, who shall have the power of removal and appointment as now provided by law; and said records, dockets, files, papers, and other official documents appertaining to the office and business of the clerk and marshal of said western district shall have and be given the same force and effect as if they had been originally a part of the files and records of said eastern district; and the offices of all United States commissioners in said western district of Arkansas shall be vacated from and after the passage of this act, and until new appointments are made by the United States circuit court in and for the district of Arkansas.

The bill in its second section amends the third section of the act entitled "An act to supply deficiencies in the appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1858," approved June 14, 1858, by striking out the words "three persons in any of the States respectively," and inserting in lieu thereof the words "one person when necessary, except when the judge of his district shall certify in writing that two persons are necessary;" and provided that when two are deemed insufficient, the marshal shall apply for aid to the nearest commanding officer of the Army, whose duty it shall be to furnish the same.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SENER moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. SENER. I report also from the Committee on Expenditures in the Department of Justice the resolution which I send to the desk.

The Clerk read as follows:

Resolved, That the Attorney-General be directed to institute a full and thorough judicial investigation into the character of the allowances that have been paid out of the Treasury Department as well as the claims still due, growing out of the expenditures of the marshal's office of the western district of Arkansas since the 1st day of July, 1870, and to report the result thereof to this House at the first day of the next session.

Mr. SENER. In regard to this resolution I wish to say that I have no desire to discuss it. But the gentleman from Pennsylvania [Mr. SPEER] who is a member of the committee desires some time thereon.

Mr. BUTLER, of Massachusetts. Does this come in under the privilege granted to the committee?

Mr. SENER. It comes in under a suspension of the rules.

The SPEAKER. A suspension of the rules was limited to four bills that were included in the gentleman's motion.

Mr. SENER. Then does the Chair decide that no discussion is in order on this resolution?

The SPEAKER. The Chair decides that if objection be made to the resolution being reported it cannot be reported.

Mr. BUTLER, of Massachusetts. I object if it is to occupy any time.

Mr. SENER. I desire to direct the attention of the Chair to the fact that the committee obtained leave to have the report considered in connection with the bills, and this resolution is distinctly embraced in the report.

The SPEAKER. The Journal will determine that question. The entry in the Journal is as follows:

TUESDAY, *June* 9. One hour after the reading of the Journal the Committee on Expenditures in the Department of Justice are allowed the floor to consider, in the House, House bills 3577, 3578, 3579, and 3580.

The Chair understands that the bills now reported are substitutes for these.

Mr. SPEER. Is there objection to this resolution being considered?

The SPEAKER. The Chair understands the gentleman from Massachusetts [Mr. BUTLER] to object if it takes time. He objects, not to the resolution but to the consumption of time.

Mr. SENER. Then the gentleman from Pennsylvania will yield the floor.

The SPEAKER. If there be no objection the resolution will be considered as agreed to.

Mr. HYNES. I object unless I am allowed to offer an amendment to it.

The SPEAKER. The gentleman cannot object conditionally.

Mr. HYNES. Then I object.

Mr. SENER. Let me give notice that on the first day I can get a suspension of the rules of the House I will ask the House to pass this most necessary resolution, and if I had supposed there would have been any objection to it the other bill would not have been passed without some remarks on my part that would have shown the necessity of this resolution.

The SPEAKER. The gentleman can get the floor for that purpose on Thursday.

Mr. HYNES. Allow me to state, with the indulgence of the House, that I do not object to the adoption of the report of the committee, but I ask in justice to certain parties that an amendment shall be made.

Mr. SENER. I have no objection to the amendment being read.

The Clerk read the proposed amendment, as follows:

And that no part of said claims be paid until the Department has been satisfied by investigation of their correctness.

Mr. SENER. Let me explain the difference between the amendment and the resolution as reported by the committee. The gentleman proposes that the Department shall pass finally in judgment on the question of the propriety of these claims, and the committee propose that there shall be a further report to this House.

Mr. HYNES. Allow me to state that the purpose of my amendment is this: That after there has been a judicial investigation and the correctness of the accounts has been established, the parties to whom the money is due after such trial and investigation shall receive their money without waiting until next winter to have the matter reported to Congress and passed upon by Congress.

Mr. SPEER. I desire to say, in view of the evidence taken by the committee, that these accounts suspended in the Treasury Department, if not fraudulent, are strongly tainted with fraud. They should never be paid until the strictest examination has been made and the House has had an opportunity of passing on them.

The SPEAKER. The gentleman from Arkansas [Mr. HYNES] objects to the resolution without his amendment, and the gentleman from Virginia [Mr. SENER] objects to the amendment. The resolution is not before the House.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of their clerks, requested the House of Representatives to return to the Senate the bill (H. R. No. 3652) providing for the publication of the revised statutes of the United States.

The message further announced that the Senate had passed, without amendment, joint resolution (H. R. No. 107) providing for the termination of the treaty between the United States and His Majesty, the King of the Belgians, concluded at Washington July 17, 1859.

PUBLICATION OF THE REVISED STATUTES.

Mr. POLAND. Some members of the Senate think there should be some provision made in relation to the distribution of the statutes among the districts. I hope the request of the Senate for the return of the bill will be acceded to.

There was no objection; and it was ordered that the bill be returned to the Senate.

GOVERNMENT OF THE DISTRICT OF COLUMBIA.

Mr. WILSON, of Indiana. With the permission of the gentleman from Virginia, who is entitled to the floor, I desire to make a report of a bill from the Joint Select Committee to Inquire into the Affairs of the District of Columbia for the purpose of printing and recommittal.

The bill (H. R. No. 3659) for the government of the District of Columbia, and for other purposes, was read a first and second time, recommitted to the committee, and ordered to be printed.

Mr. WILSON, of Indiana. I ask that the testimony and report of the committee be printed.

The order to print was made.

Mr. WILSON, of Indiana. I would like to make a parliamentary inquiry in this connection. The committee had leave to report at any time, and the session is now drawing to a close. I desire to know whether this report exhausts that leave?

The SPEAKER. It does not exhaust it. The leave was not limited to one report.

Mr. BUTLER, of Massachusetts. The bill is not to be brought back by a motion to reconsider.

The SPEAKER. The committee have the right to report at any time.

BONDS OF CLERKS OF UNITED STATES COURTS.

Mr. SENER. I now call up the bill (H. R. No. 3622) to amend the act to establish the judicial courts of the United States, approved September 24, 1789, in relation to bonds of clerks of the courts of the United States.

The bill was read. The first section provides that the seventh section of the act entitled "An act to establish the judicial courts of the United States," approved September 24, 1789, be amended and reenacted so as to read as follows:

SEC. 7. That the Supreme Court and the circuit and district courts shall have power to appoint clerks for their respective courts, according to the laws now in force; and each of said clerks shall, before he enters upon the execution of his office, take the following oath or affirmation, to wit:

"I, A B, being appointed clerk of ——, do solemnly swear (or affirm) that I will truly and faithfully enter and record all the orders, decrees, judgments, and proceedings of the said court; and that I will faithfully and impartially discharge and perform all the duties of my said office according to the best of my abilities and understanding: so help me God."

Which words "so help me God" shall be omitted in all cases where an affirmation is admitted instead of an oath. And each of said clerks shall give bond with sufficient sureties, to be approved by the court for which he is appointed, to the United States in the sum of not less than $5,000 nor more than $20,000, to be determined and regulated by the Attorney-General of the United States, faithfully to discharge the duties of his office, and seasonably to record the decrees, judgments, and determinations of the court of which he is clerk; and it shall be the duty of the district attorneys of the United States, upon requirement by the Attorney-General, to give thirty days' notice of motion in their several courts that new bonds, in accordance with the terms of this act, are required to be executed; and upon failure of any clerk to execute such new bond, his office shall be deemed vacant. The Attorney-General may at any time, upon like notice through the district attorney, require a bond of increased amount, in his discretion, from any of said clerks within the limit of the amount above specified; and the failure of the clerk to execute the same shall in like manner vacate his office. All bonds given by the clerks shall, after approval, be recorded in their respective offices, and copies thereof from the records certified by the clerks under seal of court shall be competent evidence in any court. The original bonds shall be filed in the Department of Justice.

The second section provides that if the clerk of any court of the United States shall neglect for one year to render to the Department of Justice any return of the fees and emoluments of his office, the Attorney-General shall notify the judge of the court of this fact; and unless the clerk, within sixty days thereafter, makes explanation of the delay satisfactory to the Attorney-General, it shall be the duty of the said judge to remove the clerk from office.

The third section provides that the circuit courts of the United States, for the purposes of the act, shall have power to award the writ of *mandamus*, according to the course of the common law, upon motion of the Attorney-General or the district attorney of the United States, to any officer thereof, to compel him to make the returns and perform the duties therein required.

Mr. SPEER. I believe the committee has an hour upon this bill.

The SPEAKER. It has.

Mr. SPEER. Then I desire to be heard upon it.

Mr. SENER. I have no desire to make any speech on this bill. It simply provides three things: first, that all clerks of the United States courts shall be required to increase their bonds to a sum ranging between a minimum of $5,000 and a maximum of $20,000. The old act of 1789 makes the bonds of clerks of the United States courts uniform at $2,000. In our opinion, which has also been supported by the Department of Justice, these bonds are too low and ought to be increased.

Another provision of the bill requires that in case any of the clerks

of the respective courts of the United States fail to make their returns of fees and emoluments as required by law, the Attorney General may require the judge to remove that defaulting clerk. The third provision of the bill is to this effect: that in case these clerks fail to make these returns as required by law, the Attorney-General may require them to do so by *mandamus*.

[Mr. SPEER addressed the House. His remarks will appear in the Appendix.]

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SENER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FEES AND COSTS OF OFFICERS OF UNITED STATES COURTS.

Mr. SENER also, from the Committee on Expenditures in the Department of Justice, reported back, with the recommendation that it do pass, the bill (H. R. No. 3623) to amend the twenty-third paragraph of section 3 of the act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February 26, 1853.

The bill was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the twenty-third paragraph of section 3 of the act entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved February 26, 1853, be amended so as to read as follows:

"That before any bill of costs shall be taxed by any judge or other officer, or any account payable out of the money of the United States shall be allowed by any officer of the Treasury, in favor of clerks, marshals, or district attorneys, the party claiming such account shall render the same, with the vouchers and items thereof, to a United States circuit or district court, and in presence of the district attorney or his sworn assistant, whose presence shall be noted on the record, prove in open court, to the satisfaction of the court, by his own oath or that of other persons having knowledge of the facts, to be attached to such account, that the services therein charged have been actually and necessarily performed as therein stated; and that the disbursements charged have been fully paid in lawful money; and the court shall thereupon cause to be entered of record an order approving or disapproving the account, as it may or may not regard the same proved and justified by law. United States commissioners shall forward their accounts, duly verified by oath, to the district attorneys of their respective districts, by whom they shall be submitted for approval in open court. Accounts and vouchers of marshals shall be made in duplicate, to be marked respectively 'original' and 'duplicate.' And it shall be the duty of the clerk to forward the original accounts and vouchers of the officers above specified, when approved, to the proper accounting officers of the Treasury, and to retain in his office the duplicates, where they shall be open to public inspection at all times. Nothing contained in this act shall be deemed in any wise to diminish or affect the right of revision of the accounts to which this act applies by the accounting officers of the Treasury, as exercised under the laws now in force."

SEC. 2. That whenever the business of the courts in any judicial district shall make it necessary, in the opinion of the Attorney-General, for the marshal to furnish greater security than the official bond now required by law, a bond in a sum not to exceed $40,000 shall be given when required by the Attorney-General, who shall fix the amount thereof.

SEC. 3. That all acts inconsistent with the provisions of this act are hereby repealed.

Mr. SENER. Unless some gentleman desires to discuss this bill I will not say anything in relation to it.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SENER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WESTERN DISTRICT OF ARKANSAS.

Mr. SENER. I think now there will be no contest about the resolution in relation to the western district of Arkansas, and I ask leave to report it again.

The SPEAKER. Has the resolution been modified so as to embrace the amendment of the gentleman from Arkansas, [Mr. HYNES?]

Mr. SENER. It has; I believe I am authorized by the committee to accept that amendment and I now report the resolution in a different form.

The Clerk read the resolution, as follows.

Resolved, Than the Attorney-General be directed to institute a full and thorough judicial investigation into the character of allowances that have been paid at the Treasury Department as well as claims still due growing out of expenditures in the marshal's office of the western judicial district of Arkansas, since the 1st day of July, 1870, and that no part of said claims shall be paid until the Department has been satisfied by investigation of their correctness and the Department shall report its action to this House.

The resolution was adopted.

Mr. SENER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of their clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 1009) making appropriations for the support of the Army for the year ending June 30, 1875, and for other purposes.

GENEVA AWARD.

The House then resumed the consideration of the report of the Committee on the Judiciary in regard to the Geneva award.

Mr. BUTLER, of Massachusetts. I yield to the gentleman from Vermont to offer a substitute for the substitute reported by the committee, and then I move to recommit the bill.

Mr. POLAND. I offer what I send to the Clerk's desk as a substitute for the bill reported by the committee.

The Clerk read the proposed substitute, as follows:

That within sixty days after the passage of this bill the Attorney-General of the United States shall file in the circuit court of the United States, in the circuit to be designated by the President, a bill in equity, in the nature of a bill of interpleader, setting forth so much of the treaty between the United States and the government of Great Britain, called the treaty of Washington, as provides for the submission to arbitration of certain claims for damages, commonly called the "Alabama claims," the due appointment of commissioners thereunder, the making of the award thereon, and the payment thereof. The said bill shall also set forth whether any portion of said money paid upon said award is claimed by the Government of the United States for losses or damages to the same by the acts of the vessels named in the said award, and a concise statement of the facts, grounds, and amount of such claims. And all persons, companies, or corporations, who have already filed claims in the State Department for damages caused by the vessels, for and on account of which said award was made, shall be named as defendants in said bill, and that they claim severally to be entitled to portions of the said money, but the particulars of their several claims need not be set forth. And notice of the commencement and pendency of such bill shall be given by publishing the substance thereof in one public newspaper in each State and Territory for three months successively. And such notice shall state the day of filing such bill, and that every person, company, or corporation named therein as defendant, and also every person, company, or corporation claiming to be entitled to any part of said fund, and desiring to appear and become a party therein to assert such claim, is required to file an appearance therein within six months from the filing of such bill. And all and every person, company, or corporation, whether named as a defendant in said bill or not, who shall not enter an appearance therein within said six months, shall be forever barred of all right or claim in or to any part of said award.

SEC. 2. That every person, company, or corporation who shall, within six months after the filing of said bill, appear and claim to be entitled to any part of said award, shall be admitted as a party defendant therein; and within two months after the expiration of said six months every claimant to any part of said award, who has duly entered as a defendant in said cause, shall file in said court a written statement, giving concisely and clearly the facts and grounds of his claim, and the amount thereof: *Provided*, That those persons named as defendants and claimants in the bill may file such statement of their claims at any time after said bill is filed, and before the expiration of said six months, at their option.

SEC. 3. That immediately after the filing of such statement of claim by any claimant, the court shall fix a reasonable time for such claimant to take and file his evidence in support thereof, and shall allow the Government reasonable time to take and file evidence in opposition thereto, and any claimant shall be allowed to file evidence in opposition to any claim made by the United States to any part of such fund, and all testimony shall be taken in the manner and according to the practice of the court in equity causes, and all evidence, documents, and vouchers, filed in the State Department in support of any of such claims, shall be admissible in evidence in said cause.

SEC. 4. That when the evidence is closed upon any claim the court shall proceed to determine the same, and in all such adjudications the court shall be governed by the rules and principles established in courts of equity, and in allowing or disallowing costs shall follow the same rules.

SEC. 5. That whenever more than $5,000 of any claim shall be disallowed by the court, the claimant may appeal to the Supreme Court of the United States, and whenever any claim exceeding $5,000 shall be allowed, the United States shall have the same right of appeal; and if any claim shall be allowed in favor of the United States, exceeding $5,000, any claimant, or any number of claimants jointly, may appeal therefrom; and all appeals shall be taken according to the law and rules governing appeals in equity from the circuit to the Supreme Court. Upon the allowance of any such appeal, it shall pass immediately to the Supreme Court for hearing, without awaiting the decision of other claims, and such appeal shall not delay proceedings in the circuit court upon other claims filed in the cause.

SEC. 6. That all appeals from the allowance or disallowance of such claims shall be entered at the term of the Supreme Court next after such appeal, and the Supreme Court shall give them precedence of other causes in said court, so far that they shall, if practicable, be heard at the term they are entered, and the decision of the Supreme Court shall be certified back to the court from which the appeal was taken.

SEC. 7. That whenever final judgment shall be rendered in the circuit court in favor of any claimant, a certified copy thereof shall be issued to the claimant, and a like copy be filed in the State Department.

SEC. 8. All claims allowed by said court in favor of the United States shall have priority, and be first paid out of said fund.

SEC. 9. That if the amount of all claims filed in said cause shall exceed the amount of said award, none of said judgments shall be paid until all the claims shall be adjudicated, and, if the amount of the judgments in favor of private claimants shall exceed the amount of said award, after deducting all claims allowed in favor of the United States, then the money remaining of said award shall be paid *pro rata* to such claimants, but if the amount of claims filed in said cause shall not exceed the amount of the award, after deducting the claims of the United States, or after so many of said claims shall have been finally disallowed that said fund will be sufficient to pay the remaining claims in full, and the same shall be made to appear by certificate from the court to the Secretary of State, in such case the Secretary of State, within six months after the certificate of a final judgment by the court in favor of any claimant has been duly filed, and no appeal has been taken therefrom, and no motion for a rehearing of the same has been filed, shall draw a warrant for the amount of such judgment, with 5 per cent. interest thereon from the time of the rendition thereof, in favor of the claimant therein, upon the Treasurer of the United States, and the Treasurer shall pay the same, and charge the amount against the bond or bonds held by the Secretary of State for the amount of said award.

Mr. TREMAIN. I ask the chairman of the committee to allow me to offer some amendments and to have them read.

Mr. BUTLER, of Massachusetts. There cannot be any more amendments offered.

The SPEAKER. Not unless by unanimous consent.

Mr. BUTLER, of Massachusetts. Well, I must object.

Mr. TREMAIN. I ask that the amendments may be printed in the RECORD of to-morrow morning.

The SPEAKER. Is the gentleman's amendment in the nature of a substitute?

Mr. TREMAIN. No; there are several amendments proposing to strike out different portions of the bill.

Mr. BUTLER, of Massachusetts. I have no objection to the amendments being printed.

The amendments offered by Mr. TREMAIN are as follows:

Page 12. Strike out all after the word "government," in line 12, to and including the words "Great Britain" in line 13, and insert the words "of Great Britain was held liable at Geneva."

Page 14. Strike out all after the word "who," in line 47, to and including the word "assured" in line 57, and insert in lieu thereof the words "have paid a loss thereon."

Page 14. Strike out lines 52, 53, 54, 55, 56, and 57.

Page 14. After the word "assured," in line 57, insert the words:

Provided also, That mutual insurance companies who have paid a loss shall be indemnified for the same, such indemnity to be apportioned among its members who contributed to pay such loss at the time.

Page 14. Strike out from line 58 to the word "cruisers" in line 64.

Mr. BUTLER, of Massachusetts. Before we go further I desire, in order that the House may know the order of business, to come to an agreement as to the course of this debate. This is a matter, as you are all aware, of great consequence, and there are many gentlemen who desire to discuss it. In order to give as full an opportunity for discussion as the state of public business will allow, after consulting with my associates on the committee and other gentlemen, I propose to call the previous question to-morrow at four o'clock, so that we may finish up the voting to-morrow night and that in the mean time there be a division of time between the opponents and friends of the bill substantially equally. I trust that that arrangement will meet with no objection.

Mr. TREMAIN. I have no objection to having it understood that a motion for the previous question will be made at four o'clock to-morrow.

Mr. BUTLER, of Massachusetts. That is the time at which I propose to move it.

Mr. TREMAIN. But unless I can have an opportunity to have a vote of the House on the amendments that I desire to offer, but which the chairman of the committee refuses to receive and will only allow an amendment to be offered by one of the friends of the bill, I am not to be understood as consenting that the previous question should be considered as ordered at that time. If my amendments can be received so that I can have a fair vote upon them in the House, I shall have no objection to the previous question being considered as ordered at four o'clock to-morrow.

Mr. BUTLER, of Massachusetts. Of course if the House chooses it can vote down the previous question.

The SPEAKER. The gentleman from New York proposes that if his amendments can be allowed to be considered as pending, the previous question shall be considered as operating at four o'clock to-morrow.

Mr. BUTLER, of Massachusetts. I am content with that arrangement.

The SPEAKER. If there be no objection that arrangement will be considered as agreed to.

Mr. POLAND. Will all the time between now and to-morrow afternoon be devoted to the discussion of this question?

The SPEAKER. With the exception of one hour after the reading of the Journal to-morrow, which the House this morning assigned to the Committee on Ways and Means. With that exception there is nothing in the orders of the House to interfere with this discussion.

Mr. HALE, of Maine. I do not want to interpose any objection that would hinder this bill; but the chairman of the Committee on Appropriations is absent on a conference committee, and I think it was his understanding this morning, in accordance with some suggestions that had been made, that the debate would be brief on this bill and that it would be disposed of to-day.

Mr. BUTLER, of Massachusetts. The difficulty is that a great deal of this day has already been occupied.

Mr. HALE, of Maine. It would seem to be rather limited time. But I suggest to the gentleman to name instead of four o'clock to-morrow——

Mr. BUTLER, of Massachusetts. Well, say three o'clock.

Mr. HALE, of Maine. I would suggest two o'clock, and then we can be sure to get the subject out of the way to-morrow and permit the Committee on Appropriations the next day to take up the remaining appropriation bill, which has not yet been touched by the House.

The SPEAKER. With the amendments now pending, if the gentleman from Massachusetts desires to have the question disposed of to-morrow, the previous question should be considered pending a little earlier than four o'clock.

Mr. BUTLER, of Massachusetts. Well, say three o'clock.

Mr. HALE, of Maine. That will be better.

No objection was made, and it was so ordered.

Mr. HALE, of Maine, moved to reconsider the order just made; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

[Mr. BUTLER, of Massachusetts, addressed the House. His remarks will appear in the Appendix.]

Mr. TREMAIN. Mr. Speaker, no more delicate and important subject is likely to challenge the attention of the Forty-third Congress than the just and proper distribution of the money received from Great Britain in payment of the Geneva award. The dignity and learning of the august tribunal by which that award was adjudged, the rank and power of the contending parties, the novelty of the precedent whereby causes of war were peacefully submitted to the arbitrament of an international court, the interesting nature of the momentous questions that were involved in the contest, and the forensic ability with which the claims of the sovereign litigants were maintained attracted to that tribunal the attention of the civilized world.

The United States were the victors in the litigation, but only because truth and justice were on their side. Our country has won imperishable honor and renown by its conduct in connection with that great moral and intellectual battle. This nation has earned and received the admiration and the eulogies of all other civilized nations for the magnanimity displayed by our statesmen, who, when our country was at the zenith of its power and had control of armies more powerful than any other nation, resisted the temptation to declare war, spared the blood and treasure of the people belonging to two of the principal nations of the earth, speaking a common language and springing from a common ancestry, and consented to establish a precedent whereby the interests of civilization and Christianity received a new and powerful impulse.

The Republic has received the meed of universal commendation for the exalted motives which prompted her action, for the diplomatic skill which preceded and culminated in the treaty of Washington, for the ability displayed by her legal advisers and representatives at Geneva, and for the crowning triumph which she won in the judgment of the court.

The proceedings of the court have been scattered broadcast among the nations and published in the various languages of Europe. They were events that transpired in the face of the world and commanded universal attention. The grounds on which our claims were presented and advocated, the arguments by which they were resisted, the nature and description of claims allowed, as well as the principles and matters of fact determined by the court, are also published and known, not only in England and America, but among all the jurists and peoples of continental Europe and of the civilized world.

That the record relating to the Geneva award, which is now so honorable to our country, may continue untarnished to the end of the chapter, it is necessary that the action of our Government in dealing with its own citizens should be characterized by the principles of justice and good faith. Our Government has no right to speak "with two tones to its voice," one at Geneva and another at Washington. If the arbitrators ordered Great Britain to pay to the United States the amount of the award to enable our Government to indemnify its citizens for certain losses, particularly recognized and included in the award, our Government is bound to distribute the money among those citizens who sustained those losses. It can only be withheld from the parties to whom in equity it belongs, whether it is retained in the Treasury or misappropriated by giving it to persons to whom it does not belong, by an exercise of unjustifiable arbitrary power.

This bill proposes to distribute the money, and declares to what persons it shall be paid. Having dissented from the majority of the Judiciary Committee who reported this bill, and having united in the minority report, it is due to myself and to the gravity of the questions involved that the reasons for my dissent and the grounds of my opinion should be presented to the House and to the country.

The Judiciary Committee are understood to have been unanimous in their conclusion that the money ought not to be retained in the Treasury, but should be distributed among the proper parties. Various opinions have been entertained and expressed as to the proper distribution of this fund, which may be classified as follows:

First. That it should be divided among those corporations and citizens who sustained losses by reason of the acts of those cruisers for which Great Britain was held liable, claims for which losses were allowed by the arbitrators and included in the award.

Second. That it should be divided among all the claimants for whose losses our Government made a demand of indemnity from England and presented the demand to the arbitrators, whether the claims were allowed or rejected, and whether the losses were caused by the cruisers for whose acts Great Britain was held responsible or any other confederate cruisers.

Third. That our Government holds the fund as absolute owner, free and clear from any trust or equities in favor of the parties who suffered losses, and has a legal and moral right to dispose of the money according to its own views of justice, either retaining it in the Treasury or placing it where it will do the most good.

Fourth. This bill excludes from participation in the award a large class of claimants whose losses were allowed by the arbitrators and included in the award, namely, the marine insurance companies excepting mutual companies, and includes among those who are to share in the fund a still larger class of claimants whose claims were rejected by the arbitrators, namely, the parties who paid war premiums, or, as they are named in the proceedings at Geneva, "enhanced rates of insurance."

This bill provides that all war premiums paid for war risks on vessels, cargoes, freights, or other property, after the sailing of either of the cruisers for whose acts our Government made claim upon the government of Great Britain, shall be paid out of the award, whether the

persons suffered loss by capture or not. Under this bill, if such persons have received full indemnity from an insurance company for their loss, they may recover from this award the premium paid on account of the risk. It is not necessary that the persons paying the war premiums should show that they were paid on account of the sailing of the cruisers for whose acts Great Britain was held responsible, nor even on account of the sailing of the cruisers for whose acts our Government made any demand. It is enough that they were paid after the sailing of either of the latter class of cruisers.

Under this bill, no insurance company other than mutual which may have paid any losses, and been subrogated to the rights of the owners of property lost, can receive any indemnity for the loss, although the claim for such loss may have been allowed by the Geneva tribunal, no matter whether the owner shall have executed a formal assignment of his claim or otherwise. As if to brand any claim under an assignment to a marine insurance company as odious and void, the bill provides that no insurer shall have any claim under an assignment, although he may have paid the whole loss insured, unless the assignee also paid some other and additional consideration. As the bill had previously declared that no owner should have a claim for property lost where he had been insured and his insurance had been paid, and the bill had also cut off any claim by insurance companies under their equitable or legal assignments, the only effect of the provision annulling the assignment would seem to be to express the condemnation by Congress of an assignment which was condemned by no law when made, was entirely valid between the parties, was not complained of by the parties themselves, and which was sanctioned by the general usage among underwriters and parties insured.

Although the bill recognizes some sort of equities in favor of insurance companies other than mutual who have paid losses, yet it does not permit them to recover at all from the award the amount of such losses, although they may form part of the award, but requires the companies to exhibit an account of their business during the war, and to show that the war premiums received by them did not equal in amount the losses paid by them because of property destroyed by the cruisers. So that if they have actually paid losses to the amount of $5,000,000, which were allowed at Geneva, but their business shall show that during the four years of war their premiums received equaled their losses, they are wholly excluded from participating in the award. In taking this account, also, they are not allowed to be credited for the necessary expenses of carrying on their business, but the account must be confined to premiums received and losses paid.

To illustrate: if the insurance companies paid losses to the amount of $40,000 and received premiums during the war amounting to $40,000, they are excluded wholly, although their legitimate and necessary business expenses during that period may have amounted to $40,000.

Let us suppose, and the supposition is based upon an approximation to actual facts, that our Government presented at Geneva claims for property destroyed by the three cruisers for whose acts Great Britain was held responsible, amounting to $15,000,000. Among the vessels mentioned in this claim there are a number, amounting in value to say $5,000,000, which were insured, and the insurance companies had paid to the owners the full amount of the policies of insurance. The arbitrators allowed of this five millions the sum of, say, $4,500,000, and Great Britain has paid that sum to our Government to indemnify its corporations and citizens for these losses. Under the operation of this bill the following results are effected: First, the owners of these vessels are excluded from all participation in the award, and properly excluded, because they have been fully paid by the insurance companies for their losses, and if they were allowed to receive the amount from the fund they would be paid twice. Second, the insurance companies who paid the five millions are not allowed to share in the fund because on taking the account of their entire business during the war upon the imperfect basis established under this bill, wherein they are only credited with losses paid but not with the expenses of their business, it appears that their premiums received equaled their losses. If this were all it would appear that this $4,500,000 would remain in the Treasury. This would be bad enough, but yet the insurance companies who are the sufferers would have the consolation of reflecting that while their Government had not dealt justly by them, still their money had been applied perhaps to the construction of asylums or hospitals, or perhaps to the support of Government and the payment of taxes. But this bill leaves them no such crumbs of comfort. It includes among the sharers of the fund a new and large class of claimants who, as I shall have occasion to show, will absorb the balance of the fund. It brings in all the claims for which our Government made demand upon England. Our Government was a party to a great lawsuit, and could not recover for any claims that were not embraced in its complaint or case. For more abundant caution, and, as its representatives repeatedly declared, for the purpose of having a final and complete settlement of all pending difficulties, it embraced a large class of claims in its case which the proceedings show it never had any serious expectation would be allowed, and these claims were rejected by the tribunal. This bill proceeds upon the extraordinary theory that as between itself and its own citizens our Government is estopped from controverting its liability to pay all these claims to its own people. At the same time, where the court allowed a certain class of claims belonging to insurance companies, the Government is not estopped by the fact that it demanded these claims before the court and by the further facts that these claims were allowed and the money paid over by England and received by the United States upon such claims.

Nay, the bill proceeds upon the further ground that as to the claims that were not allowed they actually constitute equitable liens upon the fund itself. It would seem that it was enough to exclude these claims from being paid out of this fund that they never entered into or formed any part of the fund itself. If they were claims that our Government ought to pay, the proper and usual course would be to permit some appropriate committee of the House, or it may be a court of competent jurisdiction, to investigate the merits of the claims; but this bill, without any investigation whatever, declares not only that these are valid claims against the United States, but that they are liens upon this particular fund, and also that the court must order them to be paid without hearing or determining the question whether our Government is liable for their payment, and the further question whether they constitute liens in law or equity upon this particular award.

Before we determine by any act of legislation that any claims against the Government should be allowed and paid, every consideration of prudence, as well as the universal practice of the Government heretofore, requires that the amount of such claim should be ascertained. If this bill had simply authorized the payment of claims that had been allowed and paid, we should have been enabled to ascertain with a reasonable approximation to certainty the amount of such claims. This House has no evidence before it and no means of ascertaining otherwise the amount of demands for war premiums which this bill directs shall be paid out of this award. It appears by the recorded list of claims that had been filed with the Department of State prior to the determination of the Geneva tribunal, a copy of which I have obtained from the Secretary, that the amount of claims for increased insurance, exclusive of interest, was $6,146,219.71. But I learn on inquiry at the State Department that a large amount of additional claims has been since filed, and that new claims of that character are yet continually filed. It was stated before the committee by one of the war-premium claimants that the amount exclusive of interest of such claims would reach the sum of $10,000,000. It is stated by those who are well informed as to the extent of business of this description transacted by insurance companies that the amount of such claims with interest will far exceed the whole amount of the award. Should this bill become a law, it is a legislative recognition that our Government is liable to pay these claims. Should the fund prove inadequate to pay them all, it is difficult to discover on what ground the Government can hereafter refuse to pay the balance of such claims, nor why it should not also pay the interest thereon, inasmuch as the bill provides not merely for the payment of the principal but also for the payment of interest.

Having made this preliminary explanatory statement, I will proceed to call the attention of the House to two principal questions growing out of the bill, which I propose to discuss.

The first one is: Ought the claims for war premiums or increased insurance to be paid out of this fund, as provided for by this bill?

The second one is: Ought any of the insurance companies who have paid losses upon policies of insurance covering property destroyed by these cruisers, for whose acts Great Britain was held responsible, to be excluded from participation in this fund unless they can show by an account of their whole business during the war that the premiums received by them did not exceed the losses paid?

In considering the question whether claims for war premiums paid, or for enhanced insurance, as they are called in the papers relating to the treaty of Washington, should be paid from this fund, the first important and, as it seems to me, the controlling fact which should influence our action is, that the Geneva tribunal decided that according to the principles of international law Great Britain was not liable for such claims. This decision was the unanimous judgment of that tribunal, including our own commissioner, Charles Francis Adams, and it was duly entered upon the record of its proceedings.

When the American case was prepared and served upon the representatives of the English goverment in accordance with the provisions of the treaty, that government insisted that certain claims therein put forth were not included within the scope of the treaty. The treaty had provided for the submission of all the claims growing out of the acts committed by the Alabama and other vessels that had escaped under whatever circumstances from the British ports, and for the depredations committed by those vessels, and generically known as the Alabama claims.

On receiving the American case the British government raised the objection that the following claims for indirect losses were not embraced within the scope or intention of the reference to arbitration, namely:

First. The loss in the transfer of the American commercial marine to the British flag.

Secondly. The enhanced payments of insurance.

Thirdly. The prolongation of the war and the addition of a large sum to the cost of the war and the suppression of the rebellion.

England demanded that these claims should be withdrawn on that ground, and our Government declined to withdraw them, and insisted that they were covered by the treaty; that it was important that all pending differences between the two countries, relating to all the claims in question, should be determined, and persisted in its determination to submit these claims to the arbitrators. A long and sharp diplo-

matic correspondence ensued upon this subject, which will be found in volume 2, of the documents relating to the treaty.

No adjustment of this question having been arrived at, the arbitrators met at Geneva, in June, 1872, when our case and the American argument in support of it was presented. The English counsel asked for an adjournment to have the pending misunderstanding as to what claims were submitted determined. The tribunal having been informed of the points in difference, adjourned over until the following Monday for consultation on the American side.

Thereupon, when the arbitrators assembled on Monday, the following proceedings took place, as will appear by the authentic and official report, found in volume 2, of the documents, beginning at page 577:

No. 112.

Mr. Davis to Mr. Fish.

[Telegram.]

GENEVA, *June* 19, 1872. (Received 4.50 p. m.)

Tribunal will this morning make declaration reciting British motion for adjournment, and reasons given for making it, namely, the differences between the governments as to competency of tribunal to determine the three classes of indirect claims, and then continues:

"The arbitrators do not propose to express or imply any opinion upon the point thus in difference between the two governments as to the interpretation or effect of the treaty, but it seems to them obvious that the substantial object of the adjournment must be to give the two governments an opportunity of determining whether the claims in question shall or shall not be submitted to the decision of the arbitrators, and that any difference between the two governments on this point may make the adjournment unproductive of any useful effect, and after a delay of many months, during which both nations may be kept in a state of painful suspense, may end in a result which it is to be presumed both governments would equally deplore, that of making this arbitration wholly abortive. This being so, the arbitrators think it right to state that after the most careful perusal of all that has been urged on the part of the Government of the United States in respect of these claims, they have arrived, individually and collectively, at the conclusion that these claims do not constitute, upon the principles of international law applicable to such cases, good foundation for an award of compensation or computation of damages between nations; and should, upon such principles, be wholly excluded from the consideration of the tribunal in making its award, even if there were no disagreement between the two governments as to the competency of the tribunal to decide thereon. With a view to the settlement of the other claims, to the consideration of which by the tribunal no exception has been taken on the part of Her Britannic Majesty's government, the arbitrators have thought it desirable to lay before the parties this expression of the views they have formed upon the question of public law involved, in order that, after this declaration by the tribunal, it may be considered by the Government of the United States whether any course can be adopted respecting the first-mentioned claims which would relieve the tribunal from the necessity of deciding upon the present application of Her Britannic Majesty's government."

DAVIS.

No. 113.

Mr. Davis to Mr. Fish.

[Telegram.]

GENEVA, *June* 19, 1872. (Received at 6 p. m.)

The counsel write me as follows:

"We are of the opinion that the announcement this day made by the tribunal must be received by the United States as determinative of its judgment upon the question of public law involved, upon which the United States have insisted upon taking the opinion of the tribunal. We advise, therefore, that it should be submitted to, as precluding the propriety of further insisting upon the claims covered by this declaration of the tribunal, and that the United States, with a view of maintaining the due course of the arbitration on the other claims without adjournment, should announce to the tribunal that the said claims covered by its opinion will not be further insisted upon before the tribunal by the United States, and may be excluded from all consideration by the tribunal in making its award."

DAVIS.

No. 114.

Mr. Fish, to General Schenck.

[Telegram.]

DEPARTMENT OF STATE, WASHINGTON, *June* 22, 1872.

Send following by telegraph and also by mail, without delay, to Davis, Geneva:

["*Mr. Fish to Mr. Davis.*]

"Your telegram of 19th informs me that the tribunal has made a declaration stating that the arbitrators have arrived at the conclusion that a class of the claims set forth in the case presented in behalf of the United States do not constitute, upon the principles of international law applicable to such cases, a good foundation for an award of compensation or computation of damages between nations, and should, upon such principles, be wholly excluded from the consideration of the tribunal in making up its award.

"You also inform me that the counsel of this Government before the tribunal at Geneva have advised in writing that they are of opinion that the announcement thus made by the tribunal must be received by the United States as determinative of its judgment upon the question of public law involved, upon which the United States have insisted upon taking the opinion of the tribunal; that the counsel advise, therefore, that this judgment be submitted to as precluding the propriety of further insisting upon the claims covered by the declaration of the tribunal; and that the United States, with a view of maintaining the due course of arbitration on the other claims, without adjournment, should announce its opinion that the claims referred to by the tribunal will not be further insisted upon by the United States, and may be excluded from its consideration by the tribunal in making its award.

"I have laid your telegrams before the President, who directs me to say that he accepts the declaration of the tribunal as its judgment upon a question of public law which he had felt that the interests of both Governments required should be decided, and for the determination of which he had felt it important to present the claims referred to for the purpose of taking the opinion of the tribunal.

"This is the attainment of an end which this Government had in view in the putting forth of those claims. We had no desire for a pecuniary award, but desired an expression by the tribunal as to the liability of a neutral for claims of that character. The President, therefore, further accepts the opinion and advice of the counsel as set forth above, and authorizes the announcement to the tribunal that he accepts their declaration as determinative of their judgment upon the important question of public law upon which he had felt it his duty to seek the expression of their opinion; and that in accordance with such judgment and opinion, from henceforth he regards the claims set forth in the case presented on the part of the United States for loss in the transfer of the American commercial marine to the British flag, the enhanced payment of insurance, and the prolongation of the war, and the addition of a large sum to the cost of the war, and the suppression of the rebellion, as adjudicated and disposed of; and that consequently they will not be further insisted upon before the tribunal by the United States, but are henceforth excluded from its consideration by the tribunal in making its award."

FISH.

No. 116.

General Schenck to Mr. Fish.

[Telegram.]

LONDON, *June* 26, 1872. (Received at 11 a. m.)

Davis telegraphs as follows:

["*Mr. Davis to Mr. Fish.*]

"At the conference convened this day (June 25) by Count Sclopis, I said the declaration made by the tribunal, individually and collectively, respecting the claims presented by the United States for the award of the tribunal for, first, the losses in the transfer of the American commercial marine to the British flag; second, the enhanced payment of insurance; and third, the prolongation of the war, and the addition of a large sum to the cost of the war and the suppression of the rebellion, is accepted by the President of the United States as determinative of their judgment upon the important question of public law involved. The agent of the United States is authorized to say that consequently the above-mentioned claims will not be further insisted upon before the tribunal by the United States, and may be excluded from all consideration in any award that may be made. To this Lord Tenterden replied: 'I will inform my government of the declaration made by the arbitrators on the 19th instant and of the statement now made by the agent of the United States, and request their instructions.' The tribunal then adjourned to Thursday at eleven, to enable him to communicate by telegraph with his government."

SCHENCK.

The hearing thereafter proceeded, and, as will hereafter be more fully stated, they made their award for the direct losses claimed by our Government. That these proceedings were regarded by our Government as the determination by the judgment of the proper tribunal that claims for war premiums were too remote and consequential to be recovered will fully appear from the letter of Secretary Fish to General Schenck, dated August 31, 1872.

No. 121.

Mr. Fish to General Schenck.

No. 260.] DEPARTMENT OF STATE, WASHINGTON, *August* 31, 1872.

SIR: I have the pleasure to acknowledge your No. 290, inclosing two copies of the Queen's speech on the prorogation of the two Houses of Parliament on the 10th instant.

The telegram had enabled the public journals to bring to my notice this speech, or at least that part of it where Her Majesty is made to say that the declaration of the arbitrators at Geneva is entirely consistent with the views which she announced to Parliament at the opening of the session, and I had observed what you comment upon, that Her Majesty in her speech at the opening of the session had said: "In the case so submitted on behalf of the United States, large claims have been included which are understood on my part not to be within the province of the arbitrators." A very long correspondence ensued, in which this Government contended, in effect, that all the claims presented were within the proper jurisdiction of the tribunal, and that they could be disposed of only upon the judgment or award of the arbitrators. At their fifth conference, on 19th June, Count Sclopis, as president of the tribunal, on behalf of all the arbitrators made a statement, in the course of which he said: "The arbitrators think it right to state that after the most careful perusal of all that has been urged on the part of the Government of the United States in respect of these claims," (referring to those which Her Majesty had thought were not within the province of the tribunal,) "they have arrived, individually and collectively, at the conclusion that these claims do not constitute, upon the principles of international law applicable to such cases, good foundation for an award of compensation or computation of damages between nations."

The president of the tribunal, in behalf of all the arbitrators, officially states that they had given "the most careful perusal" to "all that had been urged in respect of the claims"—this looks very much like taking cognizance of them; that after such perusal they had not only individually but "collectively" arrived at a "conclusion;" the "collective" action of a board must be official action.

The tribunal then, after taking cognizance of these claims, officially pronounces the opinion that upon the principles of international law applicable to such cases they do not constitute good foundation for an award of compensation or computation of damages between nations. The president could regard this only as a definitive expression—a judgment of the tribunal upon the question of public international law applicable to such cases, deciding that claims for remote or consequential injuries do not constitute good foundation for compensation in damages between nations.

At the sixth conference (25 June) the agent of the United States stated that the declaration thus "made by the tribunal is accepted by the President of the United States as determinative of their judgment upon the important question of public law involved," and "that consequently the above-mentioned claims will not be further insisted upon before the tribunal by the United States." They had been insisted upon before the tribunal, but "will not be *further* insisted upon." The British agent then said that he would inform his government of the declaration made by the arbitrators on the 19th and of the statement now made by the agent of the United States, and request their instructions.

Thus advised that the President accepted the declaration of the tribunal as determinative of "their judgment upon the important question of public law involved," and that the United States would not *further* insist upon these claims before the tribunal, the British agent, acting under instructions from his government, assumed that the arbitrators would, upon such statement, think fit now to declare that the said several claims *are, and from henceforth will be*, excluded from their consideration, and would embody such declaration in their protocol of that day's proceedings. Upon this motion (as it would be called in a court of law) of the British agent, Count Sclopis, the presiding arbitrator, on behalf of all the arbitrators, then entered final judgment, declaring "that the said several claims for indirect losses mentioned in the statement made by the agent of the Unted States, on the 25th instant, and referred to in the statement just made by the agent of Her Britannic Majesty, *are, and from henceforth shall be*, wholly excluded from the consideration of the tribunal, and directed the secretary to embody this declaration in the protocol of this day's proceedings."

The protocols thus show that these claims, which Her Majesty was made to say to Parliament, on the 6th of February, were "understood, on her part, not to be within the province of the arbitrators," were by them taken into consideration; that the tribunal gave "the most careful perusal" to all that was urged on their behalf by the United States; that it pronounced its collective opinion upon their legal inadmissibility under the principles of international law as the foundation of an award of damages; that the United States declared their acceptance of this

opinion as the judgment of the tribunal upon the question of public lwa involved, and expressed their willingness not to *further* insist upon the claims before the tribunal; that the arbitrators, upon the suggestion of the British agent, declared the claims now and from henceforth excluded from their consideration, and embodied in their protocol the declaration requested by the British agent.

If the claims had not been within the consideration of the tribunal, of what necessity the request to ask a formal order that they be "from henceforth wholly excluded?"

If they were not within the province of the arbitrators, why should the arbitrators give them consideration, or give the most careful perusal to what was urged in respect to them; or why should they express their individual and collective opinion with regard to them?

If not within "the province of the arbitrators," why should the British government, through instructions to its agent, and upon the statement of the agent of the United States that they will not be further insisted upon before the tribunal, ask for the entry of an order upon the protocol that they be "from henceforth wholly excluded from all consideration?"

I am, &c.,

HAMILTON FISH.

An erroneous impression seems to have prevailed to some extent that our Government waived the claims for war premiums in consideration of the benefits derived from the adoption of the three rules for the future government of neutrals which were secured by the treaty of Washington. A moment's reflection will show how groundless is this supposition. This is the language of the treaty on the point:

ART 6. In deciding the matters submitted to the arbitrators they shall be governed by the following three rules which are agreed upon by the high contracting parties as rules to be taken as applicable to the case, and by such principles of international law, not inconsistent therewith, as the arbitrators shall determine to have been applicable to the case:

RULES.

A neutral government is bound—

First, to use due diligence to prevent the fitting out, arming, or equipping within its jurisdiction of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war against a power with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted, in whole or in part, within such jurisdiction, to warlike use.

Secondly, not to permit either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men.

Thirdly, to exercise due diligence in its own ports and waters, and as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties.

Her Britannic Majesty has commanded her high commissioners and plenipotentiaries to declare that Her Majesty's government cannot assent to the foregoing rules as a statement of principles of international law which were in force at the time when the claims mentioned in article 1 arose, but that Her Majesty's government, in order to evince its desire of strengthening the friendly relations between the two countries and of making satisfactory provision for the future, agrees that in deciding the questions between the two countries arising out of those claims, the arbitrators should assume that Her Majesty's government had undertaken to act upon the principles set forth in those rules.

And the high contracting parties agree to observe these rules as between themselves in future, and to bring them to the knowledge of other maritime powers, and to invite them to accede to them.

These rules prescribe the standard of liability for the government of neutrals, and declare what kind of negligence shall subject them to liability for damages. They leave, however, the question as to what damages shall be allowed for a violation of these rules to the principles of international law. And yet the Geneva tribunal acting under these rules adjudged that claims for war premiums paid were not recoverable according to international law. In other words, assuming the liability of Great Britain for negligence in suffering the cruisers to escape, yet claims for enhanced insurance were too remote and indirect to be allowed as damages for such negligence. In presenting these claims our Government had the benefit of the new rules, which the British government insisted, as the treaty shows, were more severe upon neutrals than the law of nations, and yet were yielded for the purpose of strengthening the friendly relations between the two governments.

If our Government had waived these claims as part of the treaty of Washington, where is the evidence of such waiver? If they had been waived the persistent enforcement of our right to have them submitted under the treaty, even at the hazard of having the treaty itself annulled by the refusal of Great Britain to proceed under it, was an act of perfidy on the part of our Government. Our able and accomplished Secretary of State was one of the commissioners who made the treaty, and yet he demanded with unyielding pertinacity that all these claims were embraced under the treaty and should be submitted.

This erroneous notion seems to be an exploded British scandal revived.

Sir Stafford Northcote, in a speech delivered at Exeter, May 17, 1872, advanced the extraordinary statement that the British commissioners, of whom he was one, had represented to their government that they understood a promise to be given that these claims were not to be put forward, and were not to be submitted to arbitration. He was alluding to the three classes of indirect claims to which I have already referred. But that there was in fact any such promise or understanding was so completely refuted, that I do not suppose it can again be renewed. The Marquis of Ripon denied any such understanding in a speech delivered in the House of Lords, June 5, 1872. All the American commissioners denied it in the fullest and most explicit terms, and the letters of Hamilton Fish, Samuel Nelson, Judge Hoar, Robert C. Schenck, and George H. Williams, covering the whole ground, will be found in part 2, volume 2, of the documents. Finally Sir Stafford himself, in a letter to Lord Derby withdrew the charge in substance, by admitting that he only had drawn an inference from a statement by the American commissioners, but that the British commissioners never for one moment thought of relying upon it or upon any other matter outside of the treaty itself.

It thus appears that the claims for war premiums were rejected by the Geneva tribunal upon grounds that are entirely fatal to their validity. On what possible ground can they be paid out of the Geneva award?

We are told that they should be paid because our Government is liable for them, and that liability can neither be discharged nor affected by the action of the Geneva arbitration. It would be a sufficient answer to say that if this were correct, yet as they formed no part of the claims which were embraced in the award they have no place in this bill, but should be left, as all other claims against the Government are left, to be investigated by the proper committees or tribunals, and thus become recognized as demands to be paid out of the Treasury.

But I controvert each and every part of the argument by which it is sought to hold our Government liable for these war premiums. The theory of the claimants is this: The Government owes protection to its citizens in return for the allegiance the citizen owes to the Government. The citizens have a valid claim against the Government for losses sustained upon the sea, including war premiums, and therefore these claims should be embraced in this bill. The claimants are under the necessity of rejecting the theory that they had valid claims for the war premiums against Great Britain, because the tribunal rejected such claims, and because also the confederate cruisers, other than those for whose acts Great Britain was held liable, or was in fact liable, swarmed the seas, and the war premiums may have been paid as much on account of exposure to their depredations as to the acts of the three vessels for whose acts Great Britain was responsible.

Waiving the conclusive argument that the claimants have no right to this fund because the tribunal rejected their claims, let us inquire whether either Great Britain or our Government is liable for claims of this character.

Our Government is not liable, for they belong to those losses arising from war, for which citizens have no claim for indemnity against their own Government. If any authority for recognizing such claims on the part of the Government can be found in any of the writings of the publicists of Europe or America, it has not fallen under my observation. If any case can be found in the history of the civilized world where a Government has paid such claims to its citizens, it has yet to be produced in support of these claims. The allowance of such claims, or claims of a kindred character growing out of war, would destroy the resources, ruin the treasury, and annihilate the credit of any nation.

If such claims are valid, why is not the Government liable for the bounties paid to procure soldiers by citizens, towns, and cities? Why not liable for the enhanced cost of food, clothing, and all the necessaries of life paid by our citizens in consequence of war? Why not for the increased taxes, for the pecuniary losses arising from the killed who were the support of parents, wives, and children? Where shall the line be drawn?

Claims for war premiums have far less foundation than most of the losses I have named. The merchant or owner of a vessel and cargo who paid his war premium received his consideration. He got his policy of insurance, and went to bed with the knowledge that if his vessel was destroyed that night, he had a sure indemnity promised by the insurance company. The premium was voluntarily paid for a good consideration. The amount of his insurance and of the corresponding premium depended upon his own will and pleasure, and the Government had nothing to do with it. Such losses are not, I submit, and never were the proper subjects of indemnity.

Hear the language of Vattel:

There are damages caused by inevitable necessity; as for instance the destruction caused by the artillery in retaking a town from an enemy. These are merely accidents. They are misfortunes which chance deals out to the proprietors on whom they happen to fall.

The sovereign ought indeed to show an equitable regard for the sufferers if the situation of his affairs will admit of it; but no action lies against the state for misfortunes of this nature for losses which she has occasioned, not willfully, but through necessity and by mere accident, in the exertion of her rights. The same may be said of damages caused by the enemy. All the subjects are exposed to such dangers, and woe to him on whom they fall! The members of a society may well encounter such risk of property, since they encounter a similar risk of life itself. Were the state strictly to indemnify all those whose property is injured in this manner, the public finances would soon be exhausted, and every individual in the state would be obliged to contribute his share in due proportion; a thing utterly impracticable. Besides, these indemnifications would be liable to a thousand abuses, and there would be no end of the particulars. It is therefore to be presumed that no such thing was ever intended by those who united to form a society. (Book 3, chapter 15, section 232, page 403.)

If the government is liable for war premiums paid, the business of those who own ships at sea and are engaged in maritime commerce during war is far from being uncertain and hazardous, as is generally assumed. The merchant or ship-owner may send forth his vessels to the ends of the earth. He may procure policies of insurance for the full value of the ships and of their outgoing and incoming cargoes. If they are destroyed, he receives indemnity from the companies. If they escape the perils of war and bring their rich cargoes home, the enhanced values of such cargoes by reason of the war increase the profits and fill the coffers of the merchant. Whether

they are destroyed or not, upon the return of peace his war premiums must be refunded to him with interest by his government.

That these indirect claims were not regarded by our Government as having a very substantial foundation is apparent from the correspondence now made public. They had been advanced during the excitement arising out of our difficulties with England. It was deemed necessary that all pending controversies between the two countries should be settled. They were embraced within the broad language of the treaty, and hence were claimed.

But Secretary Fish, himself an eminent jurist, and aided by the advice of the best publicists of America, thus speaks of these claims in his letter to General Schenck of April 23, 1872.

Neither the Government of the United States nor so far as I can judge, any considerable number of the American people, have ever attached much importance to the so-called "indirect claims," or have ever expected or desired any award of damage on their account. (Volume 2, part 2, page 477.)

He adds:

The United States are sincere in desiring a "*tabula rasa*" on this Alabama question, and therefore they desire a judgment upon them by the Geneva tribunal.

The principle established by the Geneva tribunal that there is no liability for such remote damages will be of value to us as a neutral nation in future wars; but we cannot claim the benefit of it, if by our example in dealing with our own citizens, we recognize and pay such claims.

Mr. Fish observes in the same letter:

It is not the interest of a country situate as are the United States, with their large extent of sea-coast, a small navy, and smaller internal police, to have it established that a nation is liable in damages for the indirect, remote, or consequential results of a failure to observe its neutral duties. This Government expects to be in the future, as it has been in the past, a neutral much more of the time than a belligerent.

It is my misfortune not to have learned with certainty whether the claimants for war premiums proceed upon the ground that they had a claim against Great Britain because they paid the war premiums on account of her neglect, or whether it is put upon the ground that our Government is bound to indemnify them for losses growing out of the war without reference to the liability of Great Britain. The bill seems to assume a double aspect in this regard.

The second section provides for paying all war premiums paid after the sailing of the vessels for whose acts the Government made demand. If the Government is liable without reference to Great Britain, why not go back to the commencement of the war? If the liability depended upon the actual negligence of Great Britain, why refer to the claims made for the acts of that large fleet of cruisers for whose acts Great Britain was held not responsible at all?

The actual depredations were perpetrated by many cruisers for whose acts Great Britain was not held responsible, and for whose acts, so far as we have any evidence before us, she ought not to have been held responsible; for in the absence of any additional evidence before us we should regard the decision as correct in its conclusions upon matters of fact.

The bill does not limit the war premiums to be paid to those which were paid in consequence of the neglect of Great Britain in suffering vessels to escape. It is doubtless true that war premiums were paid in consequence of the war with the confederates, and with the knowledge that confederate cruisers were afloat and liable to increase. But it is wholly unwarranted to assume that such war premiums were paid solely because of the escape of the cruisers for whose acts England was held liable, or, indeed, for the acts of the cruisers for whose acts our Government made demand. I understand the fact to be that the Sumter ran out of New Orleans before the Alabama was built, and destroyed seventeen vessels. This alone was enough to explain the payment of war premiums. The Nashville also, it is understood, ran out of Charleston and destroyed some vessels before the Alabama escaped. Of the nine cruisers afloat, England was only held liable for the acts of two, and for the third after she left Melbourne. This act assumes that war premiums paid on account of the existence of these nine cruisers are properly chargeable to a fund paid by Great Britain solely on account of the acts of these three.

But on what principle are war premiums paid after the sailing of the vessels for whose acts our Government made a claim to be considered as entitled to payment out of this award? The claim was made for more abundant caution, so as to have every demand included. It was intended to give all our citizens who had lost a chance for recovery. It was for the purpose of securing a final settlement. The circular of our Government providing for the presentation of these claims simply stated that they would be submitted to the tribunal for its judgment concerning their merits. On what principle of law or equity does our Government become responsible for the claims which it presented and which were disallowed?

The same objection applies to the first section of the bill which provides for paying all owners of property destroyed by any confederate cruisers for whose acts our Government made claims upon Great Britain, including not merely the Alabama, Florida, and Shenandoah, but also including the Retribution, the Georgia, the Sumter, the Nashville, the Tallahassee, or Chickamauga, and the Shenandoah before she left Melbourne, for all which Great Britain was held irresponsible, but for which by this bill our Government is made liable, or the fund is held liable, because our Government in its paternal kindness made an unsuccessful claim upon Great Britain.

But I maintain that neither by the principles of international law, the common law, the civil law, nor any other law which should be recognized as binding upon Congress, are claims for war premiums paid allowable as damages, for the reason that they are too remote and indirect; and of course if this is sound doctrine, then it is wholly immaterial on what ground such claims are included in this bill. They fall within that elementary rule of damages so familiar to the legal profession, that only such damages are recoverable as are the direct, immediate, necessary result of the act. These are altogether remote, indirect, and consequential.

To illustrate: It is a familiar principle of the law of nations that if an English man-of-war should fire into and destroy an American vessel at sea in time of peace, the owner of such vessel might apply to his government for redress. In case his government should fail on demand to secure indemnity from the English government, it might lawfully issue for the benefit of the sufferer letters of marque and reprisal to seize English vessels and obtain satisfaction for his loss.

Suppose the loser of the vessel should after the destruction of his ship procure policies of insurance upon his other vessels and through fear pay large premiums to become insured against similar losses, would England be liable for those premiums? Could our Government issue letters to obtain satisfaction for them?

By the common law the hundred, and by the statute law of most of our States, cities, and counties are held liable for the acts of a mob or riot. Suppose the owner of several houses loses one of them by fire caused by rioters. The next day he procures, through fear of further destruction, ample policies of insurance upon his other buildings. Could he recover the premiums paid from the city or county? And yet that case is stronger than the present, because here the Government is not liable either for the acts of the confederate cruisers or for the negligence of the British government. Take a case of contract. A principal sends an agent upon a traveling tour and promises to pay his necessary expenses and a salary. Through fear that he may lose his life or limb, the agent procures at every railroad office a life-policy during his trip for such amount as he deems his life worth. Can he recover the premiums from his employer?

This bill is singularly inconsistent in the inequality with which it treats different classes of claimants. Insurance companies have paid losses upon vessels destroyed, and the owners have assigned to them all claims against any and all persons and governments by reason of such losses. These losses are allowed by the Geneva tribunal, and the amounts are embraced in the award. This bill declares that such insurance companies shall have no part of this fund, unless they shall make up an account of all their business during the war, charging on one side the premiums received and crediting on the other losses paid, and show that the balance is against them. How differently are those treated who paid premiums but whose claims were rejected at Geneva! A merchant at New York, Boston, or Portland sends out after the war broke out ten ships to bring back the rich and costly products of China or other countries of the East. He keeps the ships and their cargoes fully insured against war risks. In due time they return laden with their precious cargoes, and by reason of the war the profits of the merchant upon these goods are vastly enhanced. After paying all his expenses, war premiums and all, he clears $100,000 profits, whereas except for the war his profits would only have been $50,000. This bill regards him with such special favor that he is not required to make up any account of his business and show a loss, but he must be repaid all his war premiums at all events. If half his vessels had been destroyed and the insurance companies had indemnified him for their value, this bill gives him the premiums paid upon the vessels lost as well as the vessels saved. I allude to this not to justify the rule that is applied to the insurance companies, but to show how the rule varies in its application to different classes of losses.

There should be no discrimination between different classes of claimants for the fund, and least of all should there be any discrimination against those whose losses make up partly the award and in favor of those whose claims were rejected and formed no part of the award.

Why is this preference awarded to those who have claims for war premiums? It has been said that they were poor persons and that they constitute a very numerous class. Is there one law for the rich and another for the poor? Is justice a respecter of persons? Must one rule of distribution prevail as to corporations and another as to natural persons? It would not appear from the claims filed before the award was made that they were either very numerous or very poor.

The claims for "enhanced payments of insurance," called "war premiums," presented to the tribunal at Geneva for allowance under the treaty of Washington amounted to over $6,000,000.

An examination of the "revised list of claims" shows that this amount was claimed as follows:

4 persons or firms, described as of Providence, Rhode Island, claimed	$30,630 13
4 persons or firms described as of three different places in Connecticut, (one for over half, being in fact from New York,) claimed	113,469 84
11 persons or firms, described as of Concord and Portsmouth, New Hampshire, claimed	107,137 43
77 persons or firms, described as of different places in Maine, claimed	397,168 99
105 persons or firms, described as of different places in Massachusetts, (chiefly Boston, New Bedford, and Salem)	2,948,675 41
201 persons or firms thus claimed	3,597,082 10
128 persons or firms of New York claimed	2,400,646 18
12 persons or firms south and west of New York, namely, 2 in Philadelphia, 2 in Baltimore, and 8 in California	247,655 11
341 persons or firms thus claimed	6,245,383 39
Average claim	18,341 00

Inasmuch as it is from and on behalf of these claimants for "war premiums" that most if not all the opposition to the claims of the insurance companies emanates, it may be of importance to notice the *extraordinary concentration* of these claims in a few hands.

The "revised list of claims" shows that David Ogden, J. Nickerson, and Barling & Davis, of New York, and W. W. Crapo and Bradford & Folger, of New England, were the principal agents to get up and forward these claims.

The amounts represented by them, respectively, are shown to be as follows:

D. Ogden	$971,559 74
J. Nickerson	354,496 58
Barling & Davis	271,636 87
W. W. Crapo	726,553 68
Bradford & Folger	1,364,913 06
Total	3,689,159 93

When the claims for war premiums were rejected at Geneva, it would seem as if all possible ground of claim on their part upon the award had disappeared. I have a letter written by a firm who had filed claims for war premiums to the amount, I believe, of about $150,000, taking this very sensible view of the case. They write to the attorneys for an insurance company as follows:

NEW YORK, *January* 8, 1874.

DEAR SIRS: We have your letter of 30th ultimo, and would say in reply to its first paragraph that we have no recollection of receiving from the Atlantic Insurance Company a letter or certificate of the amount of war premiums paid by our firm. To the direct questions you ask we reply that we are not now taking any active steps for the maintenance or enforcement of claims for the amount of the war premiums, and that we have not executed any assignment of our claims, but did make a bargain with W. W. Crapo, C. A. Tucker, and George O. Crocker, of New Bedford, for allowing to them and their associates or assigns a percentage upon what might be received from these claims, and at the same time gave them an irrevocable power of attorney, dated December 27, 1871, to prosecute, secure, collect, and receive our claims arising out of the payment of extra insurance premiums during the war of rebellion.

After the decision of the Geneva board of arbitration, disallowing the claims for war premiums, we supposed that all chance of our recovering anything for those claims was ended, and the idea of making an allowance to claimants of this character, by means of taking away from the insurance companies the amounts allowed by the Geneva board in satisfaction of their direct claims for losses of ships and cargoes vested in them as assignees, by abandonment or otherwise of the claims of the original parties, is an idea which certainly never would have occurred to us.

If, however, the action of Congress should be such as to result in transferring a portion of the Geneva award to the war-premium claimants, we should of course claim the allowance to ourselves as made to others standing in like position.

Yours, very respectfully,

GRINNELL, MINTURN & CO.

Messrs. MOORE & HAND.

The claimants for war premiums must be deemed to have presented these claims not as demands against the United States, but as claims against Great Britain. The circular issued by the Secretary of State requiring the presentation of these claims distinctly notified the claimants that the claims to be filed in the State Department were to be presented as claims against Great Britain, and if claims were presented against the United States they were to be filed in other Departments. The following is the language of the circular which issued from the State Department to claimants, dated September 22, 1865, and also of the letter from the Secretary, dated in 1871, giving instructions to claimants:

DEPARTMENT OF STATE,
Washington, September 22, 1865.

Citizens of the United States having claims against foreign governments, not founded on contract, which may have originated since the 8th of February, 1853, will, without any delay which can be avoided, forward to this Department statements of the same, under oath, accompanied by the proper proof.

* * * * * * *

It is proper that the interposition of this Government with the foreign government against which the claim is presented should be requested in express terms to avoid a possible objection to the jurisdiction of a future commission on the ground of the generality of the claim. Claims of citizens of the United States against this Government, growing out of the late insurrection, are under the cognizance of other Departments, of the Court of Claims, or are the subjects for an appeal to Congress.

DEPARTMENT OF STATE,
Washington, September —, 1871.

SIR: I have to acknowledge the receipt of your letter of the —— instant, and its inclosures.

In reply, I inclose a copy of the treaty concluded with Great Britain on the 8th of May last and general instructions as to the proof of claims prepared for the use of claimants in the absence of rules by the tribunal which may pass upon the claims.

In the absence of rules and in anticipation of the action of the tribunal, this Department cannot assume to determine what claims it may or may not be proper to prefer under the first eleven articles of the treaty, nor to direct what form or extent of proof will be necessary to establish them, nor the effect of insurance upon the question of right of compensation. It will present to the tribunal at Geneva, to be taken into account in estimating the sum to be paid to the United States, all "claims growing out of the acts committed by the several vessels which have given rise to the claims generically known as the Alabama claims" which may be presented to the Department in time to enable it to do so. Persons desiring to lodge claims in the Department for that purpose are requested to do so without delay, in such form and sustained by such proofs as they may be advised or think proper to rest their claims upon, as the time for presenting the case of the United States expires on the 16th day of December next.

I am, very respectfully, your obedient servant,

HAMILTON FISH,
Secretary.

There is another very serious objection to the provision of this bill which allows all war premiums to be paid, and that is, that double payment of many such premiums is allowed. A large portion of the business of marine insurance, perhaps indeed the bulk of such business, was transacted under what are known as open policies. The practice among the insurance companies of the city of New York, and I presume the same prevails in all other companies in this country, is that when a loss is suffered of a vessel or cargo covered by an open policy the underwriters pay to the assured as one of the items of his loss the premium paid for the insurance. According to this bill the assured will be entitled to recover back those premiums whether loss or destruction ensued or not, and thus the assured in case of loss receives his premiums twice—once from the insurers, and again from this award. So, too, in the case of a limited policy when the value of a vessel was insured, the amount paid for premium was by the practice of the parties included in the valuation, so that in case of loss the owner received back his premium paid.

For the reasons thus imperfectly presented I am brought to the conclusion that claims for war premiums ought not to be included in this bill providing for a distribution of the Geneva award. Every dollar paid out of that fund to those to whom it does not belong is a diversion of the fund from its proper objects. If it shall be paid out by the judgment of a court of competent jurisdiction, passing upon the merits of the claims in an action wherein the United States and the claimants are parties, such judgment will be *res adjudicata* and final and conclusive. But the Government cannot relieve itself from its equitable obligations to pay the true owners by anything less than such a judgment, by the release or other voluntary act of the parties, or by accord and satisfaction. No law enacted by the Government which is merely its own act can discharge the claim that exists in favor of the true owners. They will come to Congress again and again, and unless their claims are ultimately paid they will remain a standing and perpetual memorial of the injustice with which this Government treats its own citizens.

The remaining question presented for our consideration is, whether the insurance companies shall be excluded from participation in the award, as they are practically excluded under this bill, excepting mutual companies?

What are the claims of these companies, and on what legal and equitable grounds do they stand? A large number of the vessels and cargoes destroyed for which claims were presented and allowed by the Geneva award were insured and the owners had been paid for their losses by the companies according to the contracts of insurance. The money cannot be paid to the owners. If it is not paid to the underwriters, the Government holds it without any other ownership to it than its own.

By the contract of marine insurance the company becomes the surety against loss for the owner, and in case of loss, like any other surety, becomes entitled to stand in the place of the creditor. The company succeeds to all the rights of the owner, including the right to recover the vessel if restored and all moneys recovered on account of its loss or destruction.

The Supreme Court of the United States has repeatedly adjudged that the insurer is such surety and entitled to such right of subrogation or substitution. This is the universal rule of equity jurisprudence applicable to such a contract. Story speaks of this doctrine as derived from the civil law, and as belonging to an age of enlightened policy and refined though natural justice. He says:

A surety paying the creditor was entitled to a cession of the debt and a subrogation or substitution to all the rights and actions of the creditor against the debtor. (1 Story's Equity Jurisprudence, section 635.)

The Supreme Court of the United States held in Hall & Long *vs.* Railroad Companies, (13 Wallace's Reports, 367,) that—

The insurer stands practically in the position of a surety; he is entitled to all the means of indemnity which the satisfied owner held against the party primarily liable. Hence it has often been held that an insurer who has paid a loss may use the name of the assured in an action to obtain redress. * * * It is conceded that this doctrine prevails in cases of marine insurance.

The principle of subrogation seems to have been uniformly applied, according to the decisions of our courts, to cases where moneys have been received by our Government from a foreign government as indemnity for insured property destroyed at sea. It rests upon the plainest principles of natural justice. If the insurer is not entitled to the indemnity it would follow that no one is entitled to it, because the owner has already been indemnified by the payment of his loss under the contract of insurance.

In the early case of Gracie *vs.* The New York Insurance Company, the insured property had been captured and condemned by the courts of France, and the question was whether the damages against the insurance company should be mitigated by reason of the possibility that France might afterward make payment of the loss. Chief Justice Kent, the illustrious American jurist, in deciding the case recognizes all the principles involved in the present case, when he says:

If France should at any future period agree to and actually make compensation for the capture and condemnation in question, the Government of the United States, to whom the compensation would in the first instance be payable, would become trustee for the party having the equitable title to the reimbursement; and this would clearly be the defendants (who are the insurers) if they should pay the amount.

The learned chancellor recognized the practice of civilized nations to act through their several governments in making compensation to the citizens of each nation, and was not educated in the doctrine that the government receiving the indemnity did not hold it as trustee but as absolute owner, although the nation making the payment should not declare that the money was paid to the government receiving it as trustee.

Seventy-four years ago the Supreme Court of the United States, in

the case of Symonds *vs.* Union Insurance Company, (4 Dallas's Reports, 417,) said:

The allegation of abandonment in case of loss is an inseparable incident to the right of insurance; and upon an abandonment the underwriters acquired all the rights of the insured.

In Rhinelander *vs.* The Insurance Company of Pennsylvania, (4 Cranch's U. S. Reports, 29,) the same court discusses the law of marine insurance, and Chief Justice Marshall, speaking for the court, says:

When a loss is real, a controversy can only arise as to the fact. When not so, there may be for the time a total loss, and in this state of things the insured may abandon to the underwriter, who stands in his place, and to whom justice is done by enabling him to receive all that the insured might receive.

One of the most striking decisions upon this subject is reported in 1 Peters, 193. It is the case of Comegys *vs.* Vasse, wherein Judge Story discusses this whole subject with his accustomed learning and exhaustive research.

The case is in many respects similar to the present, differing however widely in this, that when our Government received the indemnity it did not pay it over to other parties on the theory that it was the absolute owner, but paid it to the insurer, to whom it equitably belonged.

Vasse, being a marine insurer of vessels at sea which were seized and carried into Spanish ports, had paid the loss to the owners in 1802. In 1819 Spain had paid to the United States money which had been awarded by commissioners appointed under a treaty between the United States and Spain, and the United States paid the money over to Vasse, the insurer. A controversy arose as to the character of Vasse's ownership of the money, and the question is determined in this emphatic language of the court:

The law gives to the act of abandonment to underwriters, when accepted, all the effects which the most accurately drawn assignment would accomplish. The underwriter then stands in the place of the assured, and becomes legally entitled to all that can be recovered from destruction. It is clear that the right to compensation for damages and injuries to which citizens of the United States were entitled, and which, under the treaty with Spain, were to be subjects of compensation, passed by abandonment to the underwriters upon property which had been seized or captured.

England was defended before the Geneva tribunal by her most eminent, learned, and accomplished lawyers, and these gentlemen fully admitted the right of the insurance companies to be subrogated when such admissions were adverse to the interests of their Government. The language of the British counsel is as follows:

COUNTER-CASE OF GREAT BRITAIN.

The American insurance companies, who have paid the owners as for a total loss, are, in our opinion, entitled to be subrogated to the rights of the latter, according to the well-known principle that an underwriter who has paid, as for a total loss, acquires the rights of the assured in respect of the subject-matter of insurance. This principle was explained and acted on in the well-known English cases of Randall *vs.* Cochran (1 Vessey, sr., 98,) and The Quebec Fire Insurance Company *vs.* Saint Louis, (7 Moore, P. C., 286,) and is well recognized by the courts of America.

On the other hand, it is equally clear that the underwriters cannot be entitled to anything more than the assured themselves; for the claim of the former is founded on nothing else than their title to be subrogated to the rights which the latter possessed, and which therefore cannot possibly be more extensive than the claim which the latter would be entitled to maintain.

From these considerations two consequences follow: in the first place, where the claimant is the insurance company and not the owners, compensation cannot be due for any sum exceeding the amount of the actual loss sustained by the owner, however much that sum may fall short of the amount paid by the company by reason of the property having been overinsured. In the second place, wherever the owner puts forward a claim for his loss at the same time that the insurance company also claims the money paid by them in respect to the same loss, such a double claim must at once be absolutely rejected, since to allow it would be in effect to sanction the payment of the loss twice over.

In an able argument before the United States Senate, in 1835, Daniel Webster said:

There is no more universal maxim of law and justice throughout the civilized and commercial world than that an underwriter who has paid a loss on ship or merchandise to the owner is entitled to whatever may be received from the property. His right accrues by the very act of payment; and if the property or its proceeds be afterward recovered in whole or in part, whether the recovery be from the sea, from captors, or from the justice of foreign states, such recovery is for the benefit of the underwriter. Any attempt, therefore, to prejudice these claims on the ground that many of them belong to insurance companies or other underwriters is at war with the first principles of justice. (Webster's Works, volume 4, page 156.)

The steamboat Robert Campbell, jr., an insured vessel, was impressed by the United States into the military service and lost, and the question of the right of the insurance companies which had paid the loss was presented to Attorney-General Hoar. His opinion in favor of the companies is in the thirteenth volume of the Opinions of the Attorneys-General. He says:

The principles on which the following cases were decided by the Supreme Court establish, I think, the right of the insurance companies to receive from the United States in the place of the owners who were insured whatever amount of money, less than the value of the steamer and now remaining unpaid, those companies have paid the owners under their policies, and which the owners would otherwise be entitled to receive. (Comegys *et al. vs.* Vasse, 1 Peters, 193; Carpenter *vs.* Providence Washington Insurance Company, 16 Peters, 495; Gallison *vs.* The Memphis Insurance Company, 19 Howard, 312.)

That the Geneva award embraces compensation allowed for the destruction of property which had been insured and paid for by insurance companies to the amount of more than $4,000,000 is clearly established by the papers relating to the treaty of Washington. After the tribunal had decided for the acts of which vessels England was liable, and had eliminated all improper claims for indirect damages, the ascertainment of the direct damages was a matter capable of easy solution. The agents and counsel of the United States presented schedules showing the names of the vessels destroyed by each one of the three guilty cruisers or their tenders, with the value of the vessels, cargoes, and other claims, such as wages, &c., as claimed. They also laid before the tribunal the claims which had been filed with the Government by insurance companies and owners, in pursuance of the notice published by the Government calling upon all the citizens to present the same with the affidavits and proofs showing such loss and the value of the property.

No question was made as to the names of the vessels destroyed or the facts of the destruction. The aggregate amount of the claims was $14,437,000. The counsel for Great Britain presented a counter-statement, containing the list of the same vessels, but challenging the amount and items of damages claimed, and admitting damages for the destruction of the property mentioned to the amount of $7,464,764. Count Staempfli, one of the arbitrators, at the request of the tribunal, prepared from these opposing schedules a synoptical table, showing an aggregate amount, according to the arbitrators' principles, of about $12,000,000. Interest was allowed for about ten years, and the sum of $15,500,000 was awarded.

I have in my possession two tables which I will have printed with my remarks; the first one showing the names of the vessels destroyed with the name of the cruiser by which such vessel was destroyed, the items claimed by the United States, the amounts directly opposite which were allowed by the British counsel, and in the third column the estimated sum allowed by applying the principles, which were promulgated by the arbitrators.

The second table, contains the names of the vessels included in the first list which were insured, and the amount of such insurance, as appears by the claims filed and presented to the Geneva tribunal.

It will appear from these tables that the whole number of vessels destroyed for which compensation was included in the award was one hundred and twenty-nine; of which number it also appears that insurance had been effected and paid upon eighty-nine vessels.

The aggregate amount of such insurance was $4,865,832.62, of which the mutual insurance companies owned $3,078,520.87, and the stock insurance companies owned $1,787,311.75.

The bill recognizes the claims of the insurance companies but practically excludes them by the extraordinary condition-precedent as to stock companies, which requires that before receiving any portion of the award they shall—

Show by an exhibit of their books of account and business or otherwise that the war premiums actually received by them did not equal in amount the losses paid by them because of property thereafterward captured and lost or destroyed by either or all of said cruisers.

It will not be presumed that any company can comply with this condition, for they would not be likely to carry on the business which did not yield income enough from premiums, their only source of revenue, to pay their expenses, and this account takes no note of such expenses. The result of this will be that the companies are despoiled of the moneys allowed and included in the Geneva award for their indemnity.

Independent of the want of any good reason for requiring this account, there is a very great if not insuperable difficulty in taking such an account. The rates of insurance were varying from day to day according to the supposed risks. I have a letter from the president of one of the largest companies in New York showing that the premiums for war risks and for ordinary marine risks were not separated. His letter is as follows:

WASHINGTON, *April* 1, 1874.

DEAR SIR: In reply to your verbal inquiry of this date I have to say, that in probably nineteen cases out of twenty of insurance against capture during the late war insurance was obtained at the same time and in the same policy against the ordinary perils of the sea, and it was not customary to designate any portion of the premium charged for such insurance as applicable to the war risk.

In other words, the ordinary and usual course for parties desiring insurance against capture was to take out a policy covering all the perils of the sea with the risk of capture included, and for such a policy a certain premium was charged. What portion was charged by reason of the indemnity against capture the insured did not know, and no underwriter to-day could state with certainty or estimate with much accuracy in any given case.

The only exceptions were where insurance was sought against capture only, of which the instances were few, chiefly at the end of the war; and in these cases only could the amount of the so-called "war-premium" be ascertained with any reasonable certainty.

This I believe covers the ground.

Yours, truly,

J. D. JONES,
President Atlantic Mutual Insurance Company.

Why are insurance companies thus condemned to outlawry by this bill? The theory seems to be this: The award is not held by the United States in trust, but it was allowed for national losses, and is properly held by the Government as absolute owner, with full right to dispose of it according to its sovereign pleasure; and it would not be just to pay over any part of it to those companies that actually were enabled to make a livelihood out of their business during the war.

I challenge this theory in its law, its statement of fact, and its view of justice. The award was not allowed for national losses. Excepting two or three ships chartered by the United States, provision for paying for which is properly made in this bill, not one dollar was allowed for national losses, but the award was made on account of losses sustained by the private corporations and citizens of the United States, and given to the United States to enable it to indemnify such losses, and for which claims had been filed and presented. I have already

shown that money received under such circumstances has been always adjudged by the courts to be money held in trust.

What is meant by the claim that this award was for national losses? No claim was made for pecuniary compensation on account of offended pride, national insult, or wounded honor. It is to be hoped that our Government was too proud and noble to ask for money on these grounds. The expression of regret contained in the treaty on the part of England because their cruisers were suffered to escape from British ports was a far more grateful atonement than gold or silver. All the claims that were made were thus stated by the American Commissioners:

The claims, as stated by the American commissioners, may be classified as follows:
1. The claims for direct losses growing out of the destruction of vessels and their cargoes by the insurgent cruisers.
2. The national expenditures in the pursuit of those cruisers.
3. The loss in the transfer of the American commercial marine to the British flag.
4. The enhanced payments of insurance.
5. The prolongation of the war and the addition of a large sum to the cost of the war and the suppression of the rebellion.

So far as these various losses and expenditures grew out of the acts committed by the several cruisers, the United States are entitled to ask compensation and remuneration therefor before this tribunal.

The claims for direct losses growing out of the destruction of vessels and their cargoes may be further subdivided into: 1. Claims for destruction of vessels and property of the Government of the United States; 2. Claims for the destruction of vessels and property under the flag of the United States; 3. Claims for damages or injuries to persons, growing out of the destruction of each class of vessels. In the accompanying volume VII the tribunal will find ample data for determining the amount of damage which should be awarded in consequence of the injuries inflicted by reason of the destruction of vessels or property, whether of the Government or of private persons.

* * * * * * *

The United States, with this reservation, present a detailed statement of all the claims which have as yet come to their knowledge, for the destruction of vessels and property by the cruisers. The statement shows the cruiser which did the injury, the vessel destroyed, the several claimants for the vessel and for the cargo, the amounts insured upon each, and all the other facts necessary to enable the tribunal to reach a conclusion as to the amount of the injury committed by the cruiser. It also shows the nature and character of the proof placed in the hands of the United States by the sufferers. The originals of the documents referred to are on file in the Department of State at Washington, and can be produced if desired.

* * * * * * *

On all these points evidence is presented which will enable the tribunal to ascertain and determine the amount of the several losses and injuries complained of. To the amount thus shown should be added interest upon the claims to the day when the award is payable by the terms of the treaty, namely, twelve months after the date of the award. The usual legal rate of interest in the city of New York, where most of the claims of individuals are held, is 7 per cent. per annum.

* * * * * * *

They earnestly hope that the tribunal will exercise the power conferred upon it to award a sum, in gross, to be paid by Great Britain to the United States. The injuries of which the United States complain were committed many years since. The original wrongs to the sufferers by the acts of the insurgent cruisers have been increased by the delay in making reparation. It will be unjust to impose further delay, and the expense of presenting claims to another tribunal, if the evidence which the United States have the honor to present for the consideration of these arbitrators shall prove to be sufficient to enable them to determine what sum, in gross, would be a just compensation to the United States for the injuries and losses of which they complain. (Case of the United States, part 6.)

These claims were, one and all of them, rejected as we have already shown, except the first one, for direct losses arising from the destruction of the vessels and their cargoes. The judgment is in these words, expressed in the language of Mr. Staempfli:

In the acts which have just been enumerated there exists a violation on the part of Great Britain of the obligations of neutrality laid down by the three rules; consequently Great Britain is responsible for the American ships which were destroyed by the vessel in question.

Protocol 27 shows that after the tribunal had rejected claims for cost of pursuing the cruisers as being comprised in the costs of the war, claims for prospective profits, and allowed only net freight, it then decided to consider at the next conference the valuation of the destroyed property and the claims for interest.

The proceedings show that the award was for such valuation and interest. True it does not distinctly appear what precise amount was allowed for each vessel, but when it is considered that the claims of the underwriters are for the specific amounts fixed by the contract of insurance, and that they were never greater than the actual value of the insured property, all the elements of certainty are found to exist which are necessary to do complete justice. Suppose an American merchant-vessel laden with cargo owned by several different owners should be destroyed at sea by wrong or carelessness of a colliding vessel. Her master sues as he may do before a foreign court in his own name for damages, and a gross sum is awarded him for the value of vessel and cargo. Could he withhold the fund from the true owners, because the judgment failed to specify the items allowed for each owner? What would be thought of a claim by him that he did not hold the money as trustee because the judgment was silent on that subject?

The claims were treated throughout as claims to indemnify the sufferers. In the statement made to the tribunal by the agent of the United States, Hon. J. Bancroft Davis, he says:

The object of the treaty is to indemnify the United States *for all the losses suffered by their own citizens, and not to impose a part of that indemnification upon the United States themselves.* (Volume 4, page 43 of the papers relating to the treaty of Washington.)

In his report to the State Department of September 21, 1872, Mr. Davis says:

We therefore devoted our energies toward securing *such a sum as should be practically an indemnity to the sufferers.* Whether we have or have not been successful can be determined only by the final division of the same.

Again, when Mr. Davis presented to the tribunal the list of American claims, with the insurance claims included, and the verifications thereof submitted by the companies, he concludes as follows:

It thus appears that these computations show the entire extent of all private losses which the results of the adjudication of this tribunal ought to enable the United States to make compensation for.

In the American Law Review for October, 1873, will be found a vigorous and able article maintaining the rights of insurance companies; and at page 19 will be found an interesting letter on this subject from one of the American counsel at Geneva, the learned Caleb Cushing, formerly Attorney-General of the United States, dated October 17, 1872, in which he says:

In the case of the "Alabama claims," however, the United States will have in their hands a definite sum of money, awarded against England by the tribunal of arbitration, and paid over by England to the United States for distribution among the parties interested, according to the award of the tribunal.

2. In the matter of the "Alabama claims," the agent and counsel of the United States presented to the tribunal detailed schedules and estimates of the claims of American citizens on account of captures by confederate cruisers fitted out in or dispatched from ports of Great Britain in violation of public law, sending forth the names of vessels captured and the names of parties interested, whether owners of ship, freight, or cargo, or officers and seamen, or insurers, and asserting the responsibility of Great Britain in the premises.

The tribunal, in the first place, adjudged Great Britain to be guilty in respect of all captures made by the Alabama and the Florida and their tenders, and by the Shenandoah after her departure from Melbourne.

The tribunal, in the second place, examined and scrutinized the schedules and estimates of individual losses presented by the United States, and on the inspection thereof awarded a sum in gross which they conceived to be sufficient (and which I think is sufficient) to afford a just indemnity to the injured citizens of the United States.

This gross sum will within the year be paid by Great Britain to the United States, with interest on any delay; it will be received and held by the United States as a trust fund to be distributed among the parties interested, conformably to the tenor and spirit of the award of the tribunal; and the Government will be bound to make such distribution promptly and justly, by the moral force of its duty of good faith to England, and its obligation to fulfill the stipulation of the treaty of Washington.

There is no contingency, uncertainty, or doubt in all this; you and the other parties in interest may, I do not hesitate to say, rest assured of the honor and good faith of the Government of the United States in this respect, with just as much of certitude as in the payment of the gold bonds of the Government.

That accomplished lawyer and jurist, William M. Evarts, was another of our counsel at Geneva, and formerly Attorney-General of the United States, and he has argued before the Judiciary Committee with great ability the rights of the insurance companies. May the action of Congress in distributing this award be so just that there shall be no occasion for the wronged insurance companies to invoke the official opinion of the third counsel of the United States, the present Chief Justice of the Supreme Court?

Again I ask the question, and I hope each gentleman in the House will seek for a satisfactory answer to it, why are the insurance companies outlawed by this bill, provided they have made profits by their business during the war?

Is not the business of marine insurance a lawful business? If insurers make profits during war which enable them to support their families, or even to add to their property, do they thereby lose all claim to the protection of their Government? This bill treats them as outlaws.

If it had not been for these insurance companies, what would have become of our commerce during the war? Rather than incur the risks of the war our merchants and ship-owners would have suffered their vessels to remain rotting at the wharves, and our commerce would have perished. The business of insurers was not only legitimate and lawful, but it was in the highest degree beneficial to our people and our Government.

And yet this bill brands these insurers and their business as proper subjects for legislative condemnation. By what law, under what precedent, for what reason, on what principle does this Government make their right to participate in this award depend upon their success in business? Why should there be one law for the fortunate and another for the unfortunate underwriter? If a bill should be introduced proposing to pry into their business transacted during the war, and to confiscate for the benefit of the Treasury all the profits they had made, no one would doubt that the bill would be an odious attempt to confiscate the property of private citizens. But this bill differs from such a measure, not in principle but only in form.

We have seen that by the law as it has been declared for three-fourths of a century, both in England and America, the right of being substituted in place of the owner with all his rights and claims to the property insured and to any compensation for its destruction belongs to the insurer on payment of loss. This bill, however, declares that he shall have no such right if he was so diligent and prosperous that he made money.

Nay more. The Supreme Court has decided, as we have seen, that the payment of such loss operates like the most carefully framed assignment. It has been, however, the practice of many companies to take an actual assignment as a formal authentication of the insurer's title, this being a mere matter of convenience in dealing with a stranger, inasmuch as it relieves the insurer from the necessity of proving the different acts constituting his title, namely, the contract, the loss, and payment of the loss.

This bill, however, not only closes every possible avenue whereby the insurer can receive compensation unless he can prove the balance of his business account against him, but proceeds to declare every such assignment null and void unless it was founded upon some other con-

sideration than the contract of insurance and payment of the loss. True, he has paid the full value of the interest assigned; true, his contract was lawful when made; true, it is entirely satisfactory to the parties to the assignment, and was not contrary to public policy; yet this bill condemns it. This bill first kills every claim of the insurer, and then proceeds to inflict punishment after death!

On the hearing at Geneva, it would have been a good answer to our claim for damages sustained by the insurance companies that these companies had derived sufficient benefits from the war to counterbalance their demands, provided the scheme of this bill is correct. The eminent lawyers of England presented the argument, but they had not the courage to claim that any further effect should be given to it than to meet the demand for interest, which depended upon discretion, but even to this extent it was scouted by the counsel for the United States and rejected by the arbitrators.

The argument of the British lawyers is thus stated:

With respect to the insurance companies, it must be remembered that, as against the losses which they paid, they received the benefit of the enormous war premiums which ruled at that time; and that these were the risks against which they indemnified themselves (and, it cannot be doubted, so as to make their business profitable upon the whole) by those extraordinary premiums. Would it be equitable now to reimburse them, not only the amount of all these losses, *but interest* thereon, without taking into account any part of the profits which they so received?

The answer to this argument by the American counsel was thus given:

(*b.*) We may also lay aside the suggestions prejudicial to the allowance of interest on the claims which by subrogation or assignment have been presented by the *insurers* who have indemnified the original sufferers. So far as Great Britain and this tribunal are concerned, who the private sufferers, and who represent them, and whether they were insured or not, and have been paid their insurance, are questions of no importance. But it is worth while to look this argument in the face for a moment. Some of the sufferers by the depredations of the Alabama, the Florida, and the Shenandoah, were insured by American underwriters. These sufferers have collected their indemnity from the underwriters, and have assigned to them their claims.

The enhanced premiums of insurance on general American commerce have, presumptively, enriched the insurance companies. Great Britain should have the benefits of these profits, and the underwriters, at least, should lose interest on their claims. It is difficult to say whether the private or the public considerations which enter into this syllogism are most illogical. Certainly we did not expect that "*the enhanced payments of insurance*," which Great Britain could not tolerate, and the tribunal has excluded as too indirect consequences of the acts of the cruisers to be entertained *when presented by the merchants who had paid them*, were to be brought into play by Great Britain itself as direct enough in the general business of underwriting, to reduce the indemnity on insured losses, which, if uninsured, they would have been entitled to.

If the Geneva award really belongs to the United States as absolute owner, then I enter my protest against the disposition made of it by this bill. We have no moral right to give it away to the claimants for war premiums, or to dole out any portion of it to the insurance companies who lost money during the war. It is better a thousand times to bestow it upon the widows and orphans of the noble Union soldiers who fell in the war for the Union. Better distribute it in pensions among the crippled and sleeveless soldiers and sailors who were wounded in that war. Better expend it in the erection of retreats and asylums for the poor, the unfortunate, and the worthy objects of charity among us. Better even leave it in the Treasury, to be applied hereafter as may be required by the public welfare.

I have heard it suggested as an argument tending to show that the claims of the insurance companies were not included in the award, that the arbitrators rejected double claims; but a very slight examination of the documents will show that this argument has no substantial foundation.

It happened that in receiving and presenting claims our Government blended together claims to a limited extent in favor both of the owners and insurers for loss of the same vessel. This arose from the fact that in some cases the insurance was only for part of the value of the vessel and cargo, and hence claims existed in favor both of the owner and insurer, and also from the fact that our Government had nothing to do with liquidating or auditing these claims. It appeared that claims of this character were presented as to seven whaling-ships destroyed by the Shenandoah, and as to partial claims upon twenty-three other vessels. The aggregate amount of these duplicated claims was about one million and a half of dollars, and the English counsel deducted that amount from the sum embraced in the list made up by the American counsel. (See volume 3 of the papers relating to the Washington treaty, page 610, *et seq.*) No intention existed on the part of our agents to demand this double compensation, as was fully explained, and the arbitrators simply decided that these duplicated claims could not be allowed. But this does not in the least degree prove or tend to prove that the single value of the property destroyed was not allowed, while the proofs, as already stated, show that such allowance was actually made. I give extracts from the proceedings at Geneva showing precisely how this question of double claims was treated:

In the second place, wherever the owner puts forward a claim for his loss, at the same time that the insurance company also claim the money paid by them in respect of the same loss, such a double claim must at once be rejected, since to allow it would be in effect to sanction the payment of the loss twice over. (Counter case of Great Britain, volume 2, page 385.)

We readily admit that, whenever the owner puts forward a claim for his loss at the same time that the insurance company also claims for the money paid by them in respect of the same loss, then only one value of the property destroyed can be allowed; but we insist that in all such cases the award should be equal to the full value of the property destroyed. (Argument of the United States, volume 3, page 252, Note D.)

In the second place, a closer examination of the claims made for cargo in the former statement when compared with those in the original list and in the revised statement has enabled us to discover the following cases of double claims for single losses, in addition to those commented on at page 27 of our first report:

* * * * * * * *

2. The Charter Oak. (page 182 of former, and page 231 of Revised Statement, Shenandoah, class C.) Here the Manufacturers' Insurance Company claim $3,500 as insurers on cargo, and the Columbian Insurance Company likewise claim the same amount as reinsurers for the former company. This is therefore a double claim, and $3,500 must also be deducted from the allowances made on our first report. (British Argument, volume 3, page 336, Annex C, Report of the Board of Trade.)

(C.) As to the double claims:

They consist in the main of claims made by the owners for the value of their property, simultaneously with claims advanced by insurance companies with whom the property was insured, and who paid the owners the amount of their loss. To pay the owners and the insurance companies these double claims would be clearly equivalent to paying the losses twice over. One of these claims, therefore, must necessarily be rejected. (Opinions of Sir Alexander Cockburn, volume 4, page 539.)

* * * * * * * *

The tribunal proceeded to the consideration of the matters submitted to them, and unanimously declared that the "*double claims*" should be dismissed. (Protocol 27, volume 4, page 44.)

It has also been said that the instructions of Secretary Fish to our agent, Mr. Davis, that he should not commit the Government to the payment either to the owners or insurers, as that question should be reserved for the future action of the Government, tends to prove that the award was the property of the Government. But that instruction only related to the question of double claims which had been raised, and simply purported that as between the two classes of claimants the question should be kept open. The agent did not violate such instructions; nor did he misunderstand them when he informed the tribunal that the United States claimed compensation for the losses of her citizens for the purpose of indemnifying them against such losses as they had suffered. No private instructions by our Government to its agents could change or affect in any manner the character of the award, and that as already shown was demanded, awarded, paid, and received under such facts and circumstances as to constitute a trust on the part of our Government. That trust is so clearly stamped upon the fund, that no sophistry can obscure it, no ability change it, and no act discharge it, except a release from the true owners or payment to them.

It has been argued that the insurers have no claim upon this fund, because there could be no *spes recuperandi* against the rebels; therefore there could be none against Great Britain, who was only an accessory of the rebels. This argument is altogether too refined for practical use. The doctrine of principal and accessory, as known in criminal law, has no application to the conduct of nations. Great Britain was either an enemy or a neutral. The *spes recuperandi* embraces all indemnity received, whether anticipated by the parties or not. It was an incident of the contract that whenever, wherever, or from whatever source received, it belonged to the insurers who paid the loss. The Amerique was recently abandoned by her passengers and crew under such circumstances that it was believed she must inevitably sink within two hours, and if the underwriters had been called on for payment, they would have paid without the slightest expectation that she would ever be recovered. She was in fact found some days afterward floating in a trough of the sea and saved with all her cargo. She was none the less the property of the underwriters although her recovery was unexpected.

Our Government treated Great Britain as a neutral. She was in no proper sense a belligerent, for no war existed between her and our country. The relation in which both countries regarded her was that of a neutral. The treaty of Washington proceeds throughout upon the theory that she was a neutral, and the question of her liability was submitted upon the issue whether she had failed to comply with her duties and obligations as a neutral nation. Our Government presented the claims of our citizens against her solely on that ground, and on that ground the judgment was pronounced against her, and such claims were allowed. What can be more unjust now, than for our Government to change its position in dealing with the award, and declare to its own citizens that Great Britain was an ally of the confederates, and therefore was not liable for the damages recovered, and hence they are entitled to no indemnity for their losses? It is equivalent to saying we have obtained this money from Great Britain by fraud and false pretenses.

This question is totally unimportant, because even if Great Britain was a belligerent, and as such had destroyed insured property, and yet at the close of the war had made a treaty under which indemnity had been made to our Government for such property destroyed, the right of subrogation would in such a case have given to the underwriters the right to receive and hold the moneys for property lost which had been paid for by the insurers to the owners.

Our minister to England notified the British government at the very commencement that our Government would hold it responsible for the acts of these cruisers which were suffered to go forth from British ports to prey upon our commerce. Every intelligent underwriter, like every intelligent loyal citizen, believed that the question of satisfaction for the destruction of our commerce was only a question of time. He believed that such atonement would be made by treaty either with or without war, and that such payment would be procured by voluntary action on the part of England, or by the seizure of the British North American provinces that lay so temptingly near to our northern borders, or by the issue of letters of marque and

reprisal to take the valuable ships of England found floating upon every sea.

It is with a distrust arising from the acquiescence of so many able and patriotic lawyers who seem to have favored the spoliation of insurance companies allowed by this bill that I call the attention of the House to the proposition that this bill is repugnant to the Constitution because it deprives the underwriters of their property without due process of law, or takes private property for public use without just compensation. (Fifth amendment to Constitution.)

Every lawyer knows that the words "due process of law" do not mean a mere law of Congress, but that it involves a proceeding in a court of justice, acting according to the settled usages and modes of proceeding existing in the common law of England before the emigration of our ancestors. (*Vide* 18 Howard, 276, Murray's lessee; also, Taylor *vs.* Porter, 4 Hill, 146.) The only questions then left are whether this bill deprives the insurers of property.

What is property? Mr. Webster said in the speech from which I have quoted:

> A claim or demand for a ship unjustly seized and confiscated is property as clearly as the ship itself. It may not be so valuable or so certain, but it is as clear a right and has been uniformly so regarded by the courts of law. (Webster's Works, volume 4, page 153.)

In the present case the claim has progressed so far that the wrong-doer has actually paid the money over to the United States, and it now remains in its Treasury. Judge Cooley says in his excellent work on Constitutional Limitations:

> A vested right of action is property, in the same sense in which tangible things are property, and is equally protected against arbitrary interference. Nor can a party by his misconduct so forfeit a right that it may be taken from him without judicial proceedings in which the forfeiture shall be declared in due form. Forfeitures of rights and property cannot be adjudged by legislative act, and confiscations without a judicial hearing, after due notice, would be void, as not being due process of law.

The inequality and injustice of this bill strikingly appear when we observe its effect upon members of mutual insurance companies, if as is proposed in certain quarters and in the Senate bill as it originally came to this House, mutual companies shall also be required to show how their account of business during the war stands. A mutual insurance company is an association of persons who insure the property of their own members only, and of course they make no profits for distribution as in the case of stock companies.

Mr. FRYE. Will the gentleman allow me to ask him a question?

Mr. TREMAIN. A question; yes.

Mr. FRYE. The gentleman says that these mutual insurance companies cannot make a profit. Will he state how it is that the Atlantic Mutual Insurance Company of New York has obtained a capital of $9,000,000?

Mr. TREMAIN. I have the returns showing that in these mutual insurance companies that which is called their capital consists of their premium notes, that their dividend is simply their scrip notes that are returned. I have papers signed by every president of a mutual insurance company of New York, constituting the principal bulk of these claimants, showing that there is a common fund created of war premiums and ordinary premiums; but when a loss occurs it is paid out of that common fund. It shows that by their charters as mutual insurance companies, they are simply allowed to form a company by which each one contributes a certain amount for the insurance of his vessel; and at the end of the year the surplus is divided either by returning the cash or the scrip to the amount which they have on hand. It is just as impossible that they can make any profit as it is that two men can each get rich by swapping jackets from morning till night.

Mr. FRYE. I asked the gentleman how it was that that company had obtained a capital of $9,000,000 invested in United States and State stocks.

Mr. TREMAIN. I know nothing about the case to which the gentleman refers. There was no such case presented to the committee.

Mr. FRYE. Allow me to ask one other question right here. The gentleman talks about the formation of mutual insurance companies. I ask him if there is not a statute of New York which provides that these mutual insurance companies shall become stock companies to a certain extent; and if one-half of them are not hybrid, stock and mutual insurance companies combined?

Mr. TREMAIN. I cannot say. I only say that the mutual insurance companies included in this bill are not stock companies to any extent; simply mutual insurance companies. And I should be willing to have the fate of this bill depend upon the solution of that question of fact. This whole question was considered in committee, and you could not have got your bill reported except by putting in an allowance for mutual insurance companies. And yet the first thing when this bill comes up to-day you allow an amendment to strike out the mutual insurance companies and put them on a par with stock insurance companies.

Mr. FRYE. We were deliberately cheated into it by the misrepresentations of the insurance men.

Mr. TREMAIN. There were no insurance company men that appeared before the committee to my knowledge, except the most eminent members of the New York bar, such as Mr. Evarts and others.

Mr. BUTLER, of Massachusetts. J. L. Ward, of Washington, put his argument on file.

Mr. TREMAIN. Several of the most eminent members of the New York bar appeared. I hurl back upon these champions of the war-premium claims the idea that the committee was cheated into including this provision in this bill as being totally unfounded in fact. And I charge that except for the support of Mr. WARD, of Illinois—which he never would have given unless you had put in these mutual insurance companies—you never would have been able to report your bill to the House. And yet your first act is to come in here and strike down the insurance companies by providing that they cannot recover a dollar unless they show what everybody knows they cannot show, that upon a strict account of profit and loss they did not get premiums enough to cover their losses.

In the case of mutual insurance companies the average number of their members who during the war paid premiums and were insured for war risks was about one-fourth or one-fifth of the whole number, while the remaining members only paid premiums for and were insured against the ordinary marine risks. Under a bill allowing war premiums and excluding insurance companies whose premiums equaled their losses, those members who paid premiums for war risks would come in and receive from the award the amount of such premiums. These members have been paid their loss out of the funds of the company, but neither the company as such nor the members of the company will receive any part of the money paid out by them to those who had been insured against the risks. The effect of the bill is that no indemnity whatever is paid to any person for the value of the vessels and cargoes destroyed, although the claims for such vessels and cargoes were presented by our Government and were actually included in the award. Another effect is that a small portion of the members receive what they paid for premiums while the great mass of members receive nothing for what they paid to the members whose property was destroyed, nor for the amount of their own premiums or business expenses. I present herewith an illustration of the *modus operandi* of mutual insurance companies, and also of what would be the operation of this bill, if the mutual companies were placed upon the same footing as stock companies, prepared by a competent expert:

> A mutual marine insurance company is a mere association of individuals for the purpose of dividing their marine losses. It has no stockholders and no stock; it declares no dividends, accumulates no surplus, and has no interests adverse to or separate from those of its policy-holders. The underlying principle of mutual marine insurance is copartnership in or division of loss. Each policy-taker during the year agrees with the others to bear, to the extent of the premium paid by him, his proportionate share of such losses as all may suffer. Policy-holders pay premiums: 1. To fix the limit of their liability; 2. To provide a fund for the prompt payment of losses. At the end of the year so much of the aggregated premiums as is unconsumed by the losses of that year is returned to the policy-holder *pro rata*.
>
> The effect of the proposed exclusion of these insurance companies from participation in the "Geneva award," unless they can show an excess of "war losses" paid over "war premiums" received, is grave injustice to large numbers of insured, and an actual sequestration of their property.
>
> A simple illustration shows this. Take the case of a mutual marine insurance company which in 1864 may be supposed to have consisted of one thousand members or policy-holders; of these—
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> | | |
> |---|---|
> | Eight hundred had insured property against the ordinary perils of the sea to the amount of $10,000 each, at a premium of 10 per cent., and paid into the common fund each $1,000 | $800,000 |
> | Two hundred had insured the same amount each against the perils of war, at a premium of 10 per cent., and paid into the common fund each $1,000 | 200,000 |
> | The company then had a fund, out of which to pay the losses of the year, of | 1,000,000 |
> | During the year losses occurred to the property covered by nineteen of the war policies, which were thereupon paid out of the common fund | 190,000 |
> | There was then left of this fund to be repaid to the policy-holders | 810,000 |
>
> or 81 per cent. of the premium paid by each, each insurer contributing 19 per cent. of his premium to pay these losses; the eight hundred *not* insured against *war risks* actually paying four-fifths of the *war losses*.
>
> This company, acting merely as the agent for these policy-holders, now asks to be repaid these losses out of the "award," that it may repay to them the balance of their premiums which but for these losses they would have received. But its books show that it received $200,000 of "war premiums," and paid only $190,000 of war losses, and it is therefore proposed to deny its application.
>
> The two hundred partners who insured against war risks are, however, to be allowed to recover the 19 per cent. of the premiums paid by them, and eaten up by the war losses, amounting to $38,000.
>
> The practical result is to sequester $152,000, belonging to the eight hundred merchants who insured only against the ordinary perils of the sea.

What becomes of that $152,000? It forms part of the award, but not being paid out to the insurance companies, it would of course remain in the Treasury; but the bill steps in and declares it shall be paid out to other parties whose claims were not allowed and formed no part of the fund. This bill deprives the underwriter of his property unless he can show that his general business resulted in a loss, and as it did not result in a loss, he is not only unable to recover his own property, but the bill provides that it shall be paid away to other persons.

It is no answer to this argument to say that the insurer or owner had no right to recover against Great Britain in any court of law, because she could not be sued. She has waived her sovereign right of exemption from suit. She has consented to appear in court and to submit to its jurisdiction. Nay, more; she has paid and satisfied the judgment recovered against her. I am just as effectually deprived of my property when I am prohibited from enjoying it unless I shall comply with some impossible condition, as if it were taken from me by an armed soldiery.

The objections which I have urged to the bill on account of its provisions in regard to insurance companies do not apply as to mutual insurance companies, for as to them it very properly allows them to

recover for their actual losses. As to them, however, it places them in the second class, whereas they ought, as it appears to me, to be put in the first class, because their losses are direct losses—as much so as any other losses which are embraced in the first class.

The stock insurance companies are excluded, as I have before stated, upon the theory that they made large profits during the war; and upon this supposition they are excluded under this bill unless their account shall show that their losses exceeded their premiums, which it is not likely can be shown in relation to any of them, because it is scarcely probable that their premiums were not sufficient to pay their losses, and that they still carried on business, paying its expenses as an entire loss.

If during the war these companies did make profits it was their good fortune and they ought to be permitted to enjoy it. The proverbially hazardous and unprofitable nature of the business of marine insurance is thus described in the article from the Law Review:

The underwriter may or may not be rich. He may be rich to-day and poor to-morrow. An eminent merchant remarked not long since that if he were a trustee he would as soon invest property of his ward in a corner grocery as in the stock of an insurance company. The field of commercial history is strewn with the wrecks of such companies. As they seldom or never dissolve while prosperous, it may be said that their form of natural death is bankruptcy.

After the ratification of the treaty of Washington a circular was issued under the direction of the Secretary of State, informing claimants "that all claims growing out of the acts of the cruisers would be presented to the tribunal, leaving that body to determine on their merits." (Report of Mr. Davis, *vide* Papers relating to the treaty, volume 4, page 2.)

Two points were plainly implied in this circular; first, that the Government assumed no liability in receiving and presenting such claims, for they were to be determined by the Geneva tribunal; and second, that if they were allowed by such tribunal they should be paid out of the award. This bill reverses the effect of the circular by making our Government responsible for all claims it received and presented, although the tribunal decided against them on the merits, and it rejects claims in favor of insurers which were presented and allowed. When we consider that as to all such claims both the treaty and the award declared that they were "fully, perfectly, and finally settled," we cannot fail to discover the great injustice perpetrated by this bill upon the insurers.

It is true the bill as reported does partial justice to the underwriters by allowing the claims of mutual insurance companies, but I regard the other insurers as equally entitled to consideration. In my judgment their claims rest upon the plainest principles of justice and right, and I can vote for no bill which deprives them of their right to share in the award and transfers their money to other parties to whom it does not belong.

I would cheerfully support Judge POLAND'S bill which provides for one suit in the nature of a bill of interpleader to be filed by the United States against all the claimants, and provides that the fund shall be distributed according to the principles of law and equity, the decree of the court being subject to an appeal to the Supreme Court, for I feel confident no court that had the right to decide upon the merits could exclude the insurers. I greatly prefer to the present bill the one which I had the honor to introduce, which distributes the fund among the parties whose losses are allowed and constitute the award, leaving the balance, if any, in the Treasury.

And now, Mr. Speaker, having entered my protest against these features of this bill which are repugnant to my sense of justice, I shall cheerfully submit the decision of the questions involved to the better judgment of the House. Although some of these companies are located in the city of New York, I have no acquaintance with any officer or member thereof to my knowledge, and have no desire in relation to the matter except that this award shall be distributed in conformity with the eternal principles of natural justice.

The Government cannot afford to do deliberate wrong to any one, even the humblest of its citizens. Let us distribute this award in such a manner that no part of our own people shall have any cause to complain that their rights have been violated, and no stain shall rest upon the national honor and good faith in the judgment of the civilized world.

EXHIBIT A.

SUMS INCLUDED IN THE GENEVA AWARD.

In making the award the arbitrators confined their decision to the damage done by the Alabama, (and her tender the Tuscaloosa,) the Florida, (and her tenders, the Clarence, the Tacony, and the Archer,) and the Shenandoah, after her departure from Melbourne; rejecting generally all other claims, and (besides the so-called indirect claims first rejected) particularly specifying as rejected. 1. The cost of pursuit; 2. Prospective earnings; all double claims for the same losses, and all claims for gross freights, so far as they exceed net freights.

They agreed to allow interest at a reasonable rate, and deemed it "preferable to adopt the form of adjudication of a sum in gross, rather than to refer the subject of compensation for further discussion and deliberation to a board of assessors, as provided by article 10 of the said treaty." A detailed statement was then presented by the agent of the United States specifying the particular vessels destroyed which came within the decision, and the amounts claimed for each and for its different parts.

In the following table the "American claim" is taken from the statement presented to the arbitrators by the agent of the United States, Mr. Bancroft Davis, August 19, 1872. (See Papers relating to the Treaty of Washington, volume 3, page 579, &c.)

The "British allowance" is taken from the table presented by the British agent at the same time—(*Ibid.*, page 610, &c.)

The "Arbitrators' allowance" is estimated. The rule followed, being deduced in the main from the twenty-seventh, twenty-eighth, and twenty-ninth protocols, is as follows: Double claims, claims for prospective profits, and the hypothetical claims first submitted on the 19th August, 1872, are omitted. And with those deductions the American valuation for vessel and outfit is assumed as correct. Twenty-five per cent. on the value of the vessels is added in the case of whalers in lieu of prospective profits as or including wages, and in the case of merchant vessels as net freights and wages combined.

The result, approximating so closely the actual allowance, taking into consideration the insufficient data accessible, demonstrates the correctness of the rule as the one adopted by the arbitrators.

EXHIBIT A.—*Sums included in the Geneva award.*

ALABAMA.

Vessel.	No.	Particulars of claim.	American claim.		British allowance.		Arbitrators' allowance.	
			Items.	Total.	Items.	Total.	Items.	Total.
Alert	1	Vessel and outfit	$27,858 91		$24,793 62		$27,858 91	
		Wages	11,295 00		6,198 40		6,964 72	
		Personal effects	5,650 00					
				$44,803 91		$30,992 02		$34,823 63
Altamaha	2	Vessel and outfit	12,815 60		10,680 00		12,000 00	
		Wages	11,150 00		2,670 00		3,000 00	
		Personal effects	3,200 00		816 00		816 00	
				27,165 60		14,166 00		15,816 00
Benj. Tucker	3	Vessel and outfit	68,200 00		40,050 00		45,000 00	
		Profits earned	25,200 00				25,200 00	
		Wages	29,375 00		10,012 50		5,000 00	
		Personal effects	4,835 00		1,835 00		1,835 00	
				127,610 00		51,897 50		77,035 00
Courser	4	Vessel and outfit	12,312 53		10,958 00		12,312 53	
		Loss of cargo	19,845 00					
		Wages	14,495 00		2,739 50		2,558 46	
		Personal effects	4,100 00		150 00		150 00	
				50,752 53		13,847 50		15,020 99
Elisha Dunbar	5	Vessel and outfit	57,374 65		32,040 00		36,000 00	
		Profits earned	4,095 00				4,095 00	
		Wages	7,805 00		8,010 00		3,000 00	
		Personal effects	4,925 00		1,225 00		1,225 00	
				74,199 65		41,275 00		44,320 00
Kate Corey	6	Vessel and outfit	28,212 00		17,800 00		20,000 00	
		Profits earned	8,268 00				8,268 00	
		Wages	13,380 00		4,450 00		5,000 00	
		Personal effects	3,900 25		700 00		700 00	
				33,760 25		12,950 00		33,968 00
Kingfisher	7	Vessel and outfit	16,700 00		10,680 00		12,000 00	
		Profits earned	2,328 00				2,328 00	
		Wages	28,990 00		2,670 00		1,750 00	
		Personal effects	5,274 17					
				53,292 17		13,350 00		16,078 00
Levi Starbuck	8	Vessel and outfit	63,310 00		35,600 00		40,000 00	
		Cargo	75,000 00					
		Wages	8,505 00		8,900 00		3,750 00	
		Personal effects	5,560 00		860 00		860 00	
		Damages	16,000 00					
				168,415 00		45,360 00		44,610 00

EXHIBIT A.—*Sums included in the Geneva award*—Continued.

ALABAMA—Continued.

Vessel.	No.	Particulars of claim.	American claim.		British allowance.		Arbitrators' allowance.	
			Items.	Total.	Items.	Total.	Items.	Total.
Lafayette, 2d	9	Vessel and outfit	$40,775 00		$21,360 00		$24,000 00	
		Profits earned	45,492 00				43,191 00	
		Wages	18,955 00		5,340 00		6,000 00	
		Personal effects	6,026 00		1,276 00		1,276 00	
		Damages	500 00					
				$111,748 00		$27,976 00		$75,467 00
Nye	10	Vessel and outfit	37,660 00		26,700 00		30,000 00	
		Insurance on prospective profits and outfits	11,442 00					
		Profits earned	36,934 00				31,184 00	
		Wages	16,725 00		6,675 00		5,000 00	
		Personal property	5,223 25		2,016 00		2,023 00	
				107,984 25		35,298 00		58,207 00
Ocean Rover	11	Vessel and outfit	78,315 00		44,500 00		50,000 00	
		Profits earned	50,825 00				48,825 00	
	11	Wages	10,215 00		11,125 00		6,250 00	
		Personal yroperty	5,716 03		2,016 00		2,016 00	
				145,071 03		57,641 00		107,091 00
Ocmulgee	12	Vessel and outfit	40,000 00		35,600 00		40,000 00	
		Profits earned	77,572 00				77,572 00	
		Wages	10,680 00		8,900 00		3,000 00	
		Personal property	6,253 00		1,903 00		1,903 00	
		Damages	135,000 00					
				269,505 00		46,403 00		122,475 00
Virginia	13	Vessel and outfit	63,550 00		44,500 00		50,000 00	
		Wages	8,225 00		11,250 00		12,500 00	
		Personal effects	5,250 00					
				77,025 00		55,625 00		53,750 00
Weather Gauge	14	Vessel and outfit	10,053 84		8,948 00		10,053 84	
		Wages	8,920 00		2,237 00		2,513 46	
		Personal effects	4,541 70		692 00		692 00	
				23,515 54		11,877 00		13,259 30
Brilliant	15	Vessel and outfit	84,245 00		52,500 00		75,000 00	
		Freight	34,531 03				18,750 00	
		Cargo	5,186 80		4,616 43		5,187 00	
		Wages	6,195 00		2,100 00			
		Personal effects	5,300 00		1,250 00		1,250 00	
				135,457 83		60,466 43		100,187 00
Chas. Hill	16	Vessel and outfit	32,000 00		22,400 00		32,000 00	
		Freight	11,733 33				8,000 00	
		Wages	6,280 00		904 00			
		Personal effects	5,092 60		1,543 00		15,430 00	
		Damages, &c	1,359 00					
				56,464 93		24,847 00		41,543 00
Conrad	17	Vessel and outfit	10,000 00		7,000 00		10,000 00	
		Freight					2,000 00	
		Cargo	84,241 00		53,909 08		60,572 00	
		Wages	3,955 00		280 00			
		Personal effects	3,450 00					
				101,646 00		61,189 08		73,072 00
Crenshaw	18	Vessel and outfit	20,000 00		14,000 00		20,000 00	
		Freight	6,720 71				5,000 00	
		Cargo	753 78		670 17		753 78	
		Wages	3,675 00		560 00			
		Personal effects	3,250 00					
				34,399 49		15,230 17		25,753 00
Express	19	Vessel and outfit	50,000 00		35,000 00		50,000 00	
		Freight	37,890 00				12,500 00	
		Wages	9,850 00		1,400 00			
		Personal effects	6,080 00		980 00		980 00	
				103,820 00		37,380 00		63,480 00
Golden Eagle	20	Vessel and outfit	56,000 00		39,200 00		56,000 00	
		Freight	30,000 00				14,000 00	
		Cargo	27,522 50		24,494 58		27,522 50	
		Wages	9,585 00		1,568 00			
		Personal effects	6,115 00		1,165 00		1,165 00	
				129,222 50		66,427 58		98,687 50
Jabez Snow	21	Vessel and outfit	76,200 00		49,000 00		70,000 00	
		Freight	9,408 00				17,500 00	
		Wages	7,460 00		1,960 00			
		Personal effects	8,350 00		3,500 00		3,500 00	
		Damages	3,100 00					
				104,518 00		54,460 00		91,000 00
John A. Parks	22	Vessel and outfit	56,501 00		39,550 70		56,501 00	
		Freight	42,306 00				14,125 25	
		Cargo	25,700 00		22,873 00		25,700 00	
		Wages	6,215 00		1,582 00			
		Personal effects	6,633 50		1,933 00		1,933 00	
		Damages	360 00					
				137,715 50		65,938 70		98,259 25
Lafayette, 1st	23	Vessel and outfit	80,000 00		56,000 00		80,000 00	
		Freight	18,978 00				20,000 00	
		Cargo	21,537 00		19,167 93		21,537 00	
		Wages	6,735 00		2,240 00			
		Personal effects	4,980 10		1,280 00		1,280 00	
				132,250 10		78,687 93		122,817 00
Lamplighter	24	Vessel and outfit	13,875 00		9,712 50		13,875 00	
		Freight	8,780 00				3,468 75	
		Cargo	3,450 00		3,070 50		3,450 00	
		Wages	3,955 00		388 50			
		Personal effects	4,795 00		1,845 00		1,845 00	
				34,855 00		15,016 50		22,638 75
Louisa Hatch	25	Vessel and outfit	67,250 00		47,075 00		67,250 00	
		Freight	15,000 00				16,812 50	
		Wages	6,195 00		1,883 00			
		Personal effects	7,180 00		3,130 00		3,130 00	
				95,625 00		52,088 00		87,192 50
Palmetto	26	Vessel	10,000 00		7,000 00		10,000 00	
		Cargo	12,400 00		11,036 00		12,400 00	
		Wages	2,775 00		280 00			
		Personal effects	2,683 33		433 00		433 00	
		Freight, &c					2,500 00	
				27,858 33		18,749 00		25,333 00

EXHIBIT A.—*Sums included in the Geneva award*—Continued.

ALABAMA—Continued.

Vessel.	No.	Particulars of claim.	American claim.		British allowance.		Arbitrators' allowance.	
			Items.	Total.	Items.	Total.	Items.	Total.
Rockingham	27	Vessel	$91,542 00		$41,001 10		$90,090 00	
		Freight	78,127 10				22,500 00	
		Wages	6,980 00		1,640 04			
		Personal effects	13,304 95		8,755 00		8,755 00	
				$189,954 05		$51,396 14		$121,255 00
S. Gildersleeve	28	Vessel, &c	35,000 00		24,500 00		35,000 00	
		Wages	7,965 00		980 00		8,750 00	
		Personal effects	5,050 00					
				48,015 00		25,480 00		43,750 00
Wave Crest	29	Vessel, &c	29,000 00		20,300 00		29,000 00	
		Freight	4,772 00				7,250 00	
		Cargo	24,092 10		21,441 88		24,092 10	
		Wages	3,215 00		812 00			
		Personal effects	2,700 00		550 00		550 00	
		Damages	850 00					
				64,629 10		43,103 88		60,892 10
Amanda	30	Vessel, &c	35,000 00		24,500 00		35,000 00	
		Freight	33,000 00				8,750 00	
		Wages	6,325 00		980 00			
		Personal effects	4,353 00		1,853 00		1,853 00	
				78,678 00		27,333 00		45,603 00
Amazonian	31	Vessel, &c	68,544 00		22,400 00		32,000 00	
		Freight	11,000 00				8,000 00	
		Cargo	54,558 00		47,844 62		53,758 00	
		Wages	5,160 00		896 00			
		Personal effects	4,350 82		2,600 82		2,600 82	
				143,612 82		73,741 44		96,358 82
Anna F. Schmidt	32	Vessel	50,000 00		31,500 00		45,000 00	
		Freight	26,300 00				11,250 00	
		Cargo	216,479 49		158,776 89		178,401 00	
		Wages	10,140 00		1,260 00			
		Personal effects	5,625 00		1,875 00		1,875 00	
				308,544 49		193,411 89		236,526 00
Contest	33	Vessel, &c	45,000 00		31,500 00		45,000 00	
		Freight	61,500 00				11,250 00	
		Cargo	30,522 38		27,164 58		30,522 00	
		Wages	10,650 00		1,260 00			
		Personal effects	10,793 59		4,638 00		5,843 59	
				158,465 97		64,562 58		92,615 59
Dorcas Prince	34	Vessel	27,000 00		18,900 00		27,000 00	
		Freight	15,000 00				6,750 00	
		Cargo	13,776 00		12,260 64		13,776 00	
		Wages	6,280 00		756 00			
		Personal effects	6,988 60		3,439 00		3,439 00	
		Damages, &c	600 00					
				69,644 60		35,355 64		50,965 00
Dunkirk	35	Vessel	25,467 00		12,226 90		17,467 00	
		Freight	3,936 32				4,366 75	
		Cargo	19,507 60		17,361 76		19,507 60	
		Wages	2,625 00		489 07			
		Personal effects	3,874 64		2,374 00		2,374 00	
				55,410 56		32,451 73		43,715 35
Golden Rule	36	Vessel	10,000 00		8,900 00		10,000 00	
		Freight	8,207 00				2,500 00	
		Cargo	71,748 70		61,332 57		68,913 00	
		Wages	3,675 00		356 00			
		Personal effects	3,210 00		1,060 00		1,060 00	
				96,840 70		71,648 57		82,473 00
Lauretta	37	Vessel	15,139 64		10,598 00		15,140 00	
		Freight	3,000 00				3,785 00	
		Cargo	12,200 00		10,868 00		12,200 00	
		Wages	3,675 00		423 92			
		Personal effects	3,250 00					
				37,264 64		21,889 92		31,125 00
Martaban	38	Vessel	35,600 00		24,920 00		35,600 00	
		Freight					8,900 00	
		Cargo	15,000 00		13,350 00		15,070 00	
		Wages	8,050 00		906 80			
		Personal effects	11,012 25		2,322 25		2,322 25	
				69,662 75		41,589 05		61,822 25
Olive Jane	39	Vessel	35,000 00		24,500 00		35,000 00	
		Freight	15,000 00				8,750 00	
		Cargo	39,028 66		15,600 81		17,529 00	
		Wages	2,905 00		980 00			
		Personal effects	4,450 00		2,000 00		2,000 00	
		Damages	1,000 00					
				97,383 66		43,080 81		63,279 00
Parker Cook	40	Vessel	9,493 33		6,645 34		9,493 33	
		Freight	1,625 29				2,373 33	
		Cargo	14,280 94		12,710 04		14,280 94	
		Wages	2,775 00		265 81			
		Personal effects	2,915 00		655 00		655 00	
				31,089 56		20,276 19		26,802 60
Sea Bride	41	Vessel	39,756 00		21,000 00		30,000 00	
		Freight	21,000 00				7,500 00	
		Cargo	82,445 12		40,446 05		45,445 00	
		Wages	6,600 00		840 00			
		Personal effects	6,143 00		3,393 00		3,393 00	
				155,944 12		65,679 05		86,338 00
Talisman	42	Vessel	101,950 00		48,247 50		68,925 00	
		Freight	38,579 00				17,231 25	
		Wages	8,560 00		2,729 90			
		Cargo	90,371 00		80,430 19		90,371 00	
		Personal effects	8,405 00		2,455 00		2,455 00	
				247,765 00		133,862 59		178,982 25
Sea Lark	43	Vessel	71,000 00		35,700 00		51,000 00	
		Freight	23,500 00				12,750 00	
		Cargo	215,805 14		191,525 33		215,197 00	
		Wages	7,720 00		1,428 00			
		Personal effects	5,700 00		1,250 00		1,250 00	
				323,725 14		229,903 33		280,197 00

EXHIBIT A.—*Sums included in the Geneva award*—Continued.

ALABAMA—Continued.

Vessel.	No.	Particulars of claim.	American claim.		British allowance.		Arbitrators' allowance.	
			Items.	Total.	Items.	Total.	Items.	Total.
Thomas B. Wales	44	Vessel	$20,000 00		$14,000 00		$20,000 00	
		Freight	15,165 00				5,000 00	
		Cargo	192,675 24		167,204 30		187,870 00	
		Wages	7,975 00		560 00			
		Personal effects	5,446 00		2,946 00		2,946 00	
				$241,261 24		$184,710 30		$215,816 00
Tycoon	45	Vessel, &c	67,375 00		44,800 00		64,000 00	
		Freight	33,739 78				16,000 00	
		Cargo	333,763 00		297,049 07		333,763 00	
		Wages	5,540 00		1,792 00			
		Personal effects	5,151 00		1,471 00			
		Damages	11,049 60				1,471 00	
				456,589 38		345,112 07		415,234 00
Union Jack	46	Vessel	53,000 00		24,500 00		35,000 00	
		Freight	6,000 00				8,750 00	
		Cargo	89,886 30		51,506 08		57,872 00	
	46	Wages	3,960 00		980 00			
		Personal effects	5,250 00		2,400 00		2,400 00	
		Damages, &c	20,948 33					
				179,044 63		79,386 08		104,022 00
Winged Racer	47	Vessel	56,833 00		39,783 10		56,833 00	
		Freight	24,000 00				14,208 25	
		Cargo	276,982 91		228,714 87		256,983 00	
		Wages	13,700 00		1,591 22			
		Personal effects	14,352 00		7,952 00		7,592 00	
				385,867 91		278,041 19		335,616 25
Manchester	48	Vessel	111,659 60		44,912 00		64,160 00	
		Freight	15,000 00				16,040 00	
		Cargo	27,316 32		24,311 24		27,316 00	
		Wages	7,175 00		1,796 48			
		Personal effects	5,825 00		1,075 00		1,075 00	
		Damages	6,105 00					
				173,080 92		72,094 72		108,591 00
Chastelaine	49	Vessel	10,414 00		7,289 80		10,414 00	
		Cargo	1,156 55		1,029 73		1,156 55	
		Wages	3,675 00		291 59		2,603 59	
		Personal effects	2,350 00		100 00		100 00	
				17,595 55		8,711 12		14,274 05
Emma Jane	50	Vessel	51,039 25		35,727 58		51,039 25	
		Freight	27,762 09				12,759 81	
		Wages			1,429 10			
		Personal effects	5,556 00		4,356 00		4,356 00	
		Damages, &c	2,200 00					
				86,557 34		41,512 68		68,155 06
Highlander	51	Vessel	114,000 00		58,800 00		84,000 00	
		Freight	68,402 00				21,000 00	
		Wages	10,250 00		2,352 00			
		Personal effects	13,519 00		8,769 00		8,769 00	
				206,171 00		69,921 00		113,769 00
Sonora	52	Vessel	55,800 00		39,060 00		55,800 00	
		Freight	32,244 44				13,950 00	
		Wages	5,550 00		1,562 40			
		Personal effects	5,495 00		2,595 00		2,595 00	
		Damages	2,870 00					
				102,964 44		43,217 40		72,345 00
Ariel	53	Cargo	10,000 00		8,900 00		10,000 00	
		Damages	423 38					
				10,423 38		8,900 00		10,000 00
Justina	54	Damages	7,000 00					
				7,000 00				
Morning Star	55	Damages	5,614 40					
				5,614 40				
Nora	56	Vessel	65,000 00		35,000 00		50,000 00	
		Freight	15,000 00				12,500 00	
		Wages	2,275 00		1,400 00			
		Personal effects	3,950 00		1,700 00		1,700 00	
		Damages	1,800 00					
				88,025 00		38,100 00		64,200 00
Starlight	57	Vessel	4,220 00		2,954 00		4,220 00	
		Freight	1,720 00				1,055 00	
		Wages	2,975 00		118 16			
		Personal effects	2,330 00		580 00		580 00	
				11,245 00		3,652 16		5,855 00
Baron de Castine	58	Damages	1,550 00	1,550 00				
		Grand total		6,578,250 96		3,357,362 87		4,747,230 91

FLORIDA.

Golconda	59	Vessel	$38,000 00				$28,000 00	
		Freight	4,536 00				7,000 00	
		Cargo	118,865 05				107,666 85	
		Wages	3,465 00					
		Personal property	4,329 87				679 87	
				$169,195 92		$71,005 00		$143,346 72
Rienzi	60	Vessel	10,527 00		$7,707 00		7,700 05	
		Freight	787 00		787 00		1,925 00	
		Wages	4,460 00					
		Personal property	4,950 00					
				20,724 00		8,487 00		9,625 00
Ada	61	Original claim	5,300 00		5,300 00		5,300 00	
		Personal property	1,000 00					
				6,300 09		5,300 00		5,300 00
Elizabeth Ann	62	Vessel, &c	6,700 00		8,100 00		6,700 00	
		Wages	950 00				1,425 00	
		Personal property	1,000 00					
				8,650 00		8,100 00		8,125 00

EXHIBIT A.—*Sums included in the Geneva award*—Continued.

FLORIDA—Continued.

Vessel.	No.	Particulars of claim.	American claim.		British allowance.		Arbitrators' allowance.	
			Items.	Total.	Items.	Total.	Items.	Total.
Marengo	63	Vessel, &c	$5,796 00		$7,296 00		$5,796 00	
		Wages	950 00				1,449 00	
		Personal property	1,000 00					
				$7,796 00		$7,296 00		$7,245 00
Rufus Choate	64	Vessel, &c	6,825 00		8,325 00		6,825 00	
		Wages	950 00				1,706 24	
		Personal property	1,000 00					
				8,775 00		8,325 00		8,531 25
Wanderer	65	Vessel, &c	6,439 00		7,839 00		6,439 00	
		Wages	950 00				1,609 75	
		Personal property	1,000 00					
				8,389 00		7,839 00		8,048 75
Anglo-Saxon	66	Vessel, &c	45,000 00		25,205 00		45,000 00	
		Freight	1,710 79		1,008 20		11,250 00	
		Cargo	5,500 00		4,840 00		5,500 00	
		Wages	6,335 00					
		Personal property	1,550 00					
				63,695 79		31,053 20		61,750 00
B. F. Hoxie	67	Vessel, &c	72,000 00		51,120 00		72,000 00	
		Freight	26,000 00		2,044 80		18,000 00	
		Wages	10,305 00					
		Personal property	6,850 00					
				115,155 00		53,164 80		90,000 00
Avon	68	Vessel	80,000 00		47,570 00		67,000 00	
		Freight	40,000 00				16,750 00	
		Cargo	47,701 40		41,976 88		47,701 00	
		Wages	8,750 00		1,427 10			
		Personal property	7,400 00		3,700 00		3,700 00	
				183,851 40		94,673 98		135,151 40
Greenland	69	Vessel	30,000 00				30,000 00	
		Freight	7,200 00				7,500 00	
		Cargo	1,600 00				1,600 00	
		Wages	3,895 00					
		Personal property	4,115 00		1,065 00		1,065 00	
		Damages	360 00					
				47,170 00		10,000 00		40,165 00
Southern Cross	70	Vessel	55,000 00		21,300 00		30,000 00	
		Freight	10,000 00				7,500 00	
		Wages	8,505 00		639 00			
		Personal property	5,800 00		450 00		450 00	
				79,305 00		22,389 00		37,950 00
William C. Clark	71	Vessel	17,562 50		3,550 00		7,500 00	
		Freight	1,207 61				1,875 00	
		Cargo	4,830 30				4,830 30	
		Wages	3,815 00		106 50			
		Personal property	4,141 50				791 50	
				31,556 91		3,656 50		14,996 80
Mary Alvina	72	Vessel	11,000 00		7,810 00		11,000 00	
		Freight	3,216 00				2,750 00	
		Wages	3,675 00		234 30			
		Personal property	2,554 00		304 00		304 00	
				20,445 00		8,348 30		14,054 00
Aldebaran	73	Vessel	20,500 00		14,555 00		20,500 00	
		Cargo	476 06		419 88		476 06	
		Wages	3,675 00		436 65		5,125 00	
		Personal property	6,306 85		4,057 00		4,056 85	
				30,957 91		19,468 53		30,157 91
Clarence	74	Vessel	8,000 00		5,680 00		8,000 00	
		Cargo	11,400 00		10,032 00		11,400 00	
		Wages	3,675 00		170 40		7,000 00	
		Personal effects	3,102 50					
				26,177 40		15,882 40		21,400 00
Commonwealth	75	Vessel	37,561 58		39,050 00		50,000 00	
		Freight	24,250 00				12,500 00	
		Cargo	370,704 00		325,665 12		370,704 00	
		Wages	94,80 00		1,171 50			
		Personal effects	8,538 00		2,088 00		2,088 00	
				470,533 58		368,974 62		435,292 00
Crown Point	76	Vessel	58,200 00		41,322 00		58,200 00	
		Freight	10,100 00				14,550 00	
		Cargo	330,771 00		271,679 76		314,727 00	
		Wages	7,470 00		1,239 66			
		Personal property	9,542 00		4,842 00		4,842 00	
		Damages	20,000 00					
				436,083 00		319,083 42		392,319 00
Electric Spark	77	Vessel	166,000 00		117,860 00		166,000 00	
		Cargo	291,361 83		214,041 64		251,361 48	
		Wages	6,055 00		3,535 80		3,535 80	
		Personal property	4,950 00					
				468,366 83		335,437 44		420,896 00
Henrietta	78	Vessel	25,000 00		17,750 00		25,000 00	
		Freight	7,140 00				6,250 00	
		Cargo	32,130 94		28,285 23		32,130 94	
		Wages	5,000 00		532 50			
		Personal effects	4,286 00		1,536 00		1,536 00	
				73,536 94		48,103 73		64,916 94
Jacob Bell	79	Vessel	50,000 00		35,500 00		50,000 00	
		Freight	22,783 00				12,500 00	
		Cargo	308,290 00		271,295 20		308,290 00	
		Wages	12,450 00		1,065 00			
		Personal property	8,183 40		2,333 00		2,333 00	
		Damages, &c	20,280 00					
				421,986 40		310,193 20		373,123 00
Lapwing	80	Vessel	30,000 00		21,300 00			
		Freight	15,000 00				30,000 00	
		Cargo	30,000 00		26,400 00		7,500 00	
		Wages	4,935 00		639 00		30,000 00	
		Personal property	4,150 00					
				84,085 00		48,339 00		67,500 00

EXHIBIT A.—*Sums included in the Geneva award*—Continued.

FLORIDA—Continued.

Vessel.	No.	Particulars of claim.	American claim.		British allowance.		Arbitrators' allowance.	
			Items.	Total.	Items.	Total.	Items.	Total.
M. J. Colcord	81	Vessel	$24,694 21		$17,483 04			
		Freight	10,000 00				$24,624 21	
		Cargo	65,867 00		58,562 96		6,156 05	
		Wages	3,955 00		524 49		65,867 00	
		Personal property	3,450 00					
				$207,896 21		$76,570 49		$96,647 26
Red Gauntlet	82	Vessel	60,851 43		43,204 21		60,851 43	
		Freight	15,188 12				15,212 88	
		Cargo	32,677 48		28,755 76		32,677 48	
		Wages	5,675 00		1,296 12			
		Personal property	10,083 91		5,059 00		5,059 00	
				124,475 94		78,315 09		113,800 79
Star of Peace	83	Vessel	90,000 00		62,480 00		90,000 00	
		Freight	41,884 00				22,500 00	
		Cargo	386,839 65		294,237 68		353,024 65	
		Wages	8,505 00		1,874 40			
		Personal property	4,900 00		550 00		550 00	
				532,128 65		359,142 08		466,074 65
W. B. Nash	84	Vessel	9,950 19		7,064 63		9,950 19	
		Cargo	51,849 75		36,828 00		41,850 00	
W. B. Nash	84	Wages	3,675 00		211 93		2,487 54	
		Personal property	3,250 00					
				68,724 94		45,004 56		54,287 74
Oneida	85	Vessel	20,000 00		14,200 00		20,000 00	
		Freight	1,294 00				5,000 00	
		Cargo	433,588 00		381,557 44		433,588 00	
		Wages	4,275 00		426 00			
		Personal property	6,750 12		4,500 00		4,500 00	
		Damages, &c	4,942 00					
				471,849 12		400,683 44		463,088 00
Windward	86	Vessel	12,000 00		8,520 00		12,000 00	
		Cargo	3,953 00		3,478 64		3,953 00	
		Wages	3,675 00		255 60		3,000 00	
		Personal effects	2,750 00		500 00		500 00	
				22,378 00		12,754 24		19,453 00
Estelle	87	Vessel	18,000 00		12,780 00		18,000 00	
		Wages	3,675 00		383 40		4,500 00	
		Personal property	3,250 00					
				24,925 00		13,163 40		22,500 00
Zelinda	88	Vessel	36,000 00		25,560 00		36,000 00	
		Wages	3,675 00		766 80		9,000 00	
		Pesonal property	3,250 00					
				42,925 00		26,326 80		45,000 00
Umpire	89	Vessel	6,100 00		4,331 00		6,100 00	
		Freight	2,200 00				1,525 00	
		Cargo	21,155 00		18,626 40		21,155 00	
		Wages	3,675 00		129 93			
		Personal property	2,400 00		150 00		150 00	
				35,530 00		23,237 33		28,930 00
Mandamin	90	Vessel	18,129 00		12,871 59		18,129 00	
		Freight	3,800 00				4,532 25	
		Cargo	5,000 00		4,400 00		5,000 00	
		Wages	4,095 00		386 14			
		Personal property	2,550 00					
		Damages	1,143 00				27,661 25	
				34,717 00		17,637 73		27,661 25
Corris Ann	91	Vessel	20,000 00		14,200 00		20,000 00	
		Freight	1,000 00				5,000 00	
		Cargo	4,400 00		3,872 00		4,400 00	
		Wages	4,935 00		426 00			
		Personal property	4,150 00					
				34,485 00		18,498 00		29,400 00
General Berry	92	Vessel	31,576 00				31,576 00	
		Wages	1,575 00				7,894 00	
		Personal property	2,767 00				1,267 00	
				35,918 00		17,267 00		40,737 00
George Latimer	93	Vessel	16,233 34		8,544 14		12,034 00	
		Freight	683 00				3,008 50	
		Cargo	27,000 00		23,760 00		27,000 00	
		Wages	3,675 00		256 32			
		Personal property	2,250 00					
				49,831 34		32,560 46		42,042 50
Harriett Stevens	94	Vessel	30,000 00				30,000 00	
		Freight	5,500 00				7,500 00	
		Cargo	9,500 00				9,500 00	
		Wages	3,675 00					
		Personal property	3,250 00					
				51,925 00		10,000 00		47,000 00
Byzantium	95	Vessel	45,000 00		31,950 00		45,000 00	
		Freight	5,787 00				11,250 00	
		Cargo	2,548 51		2,246 74		2,548 51	
		Wages	5,455 00		958 50			
		Personal property	4,450 00					
				63,240 51		35,155 21		58,798 51
Good Speed	96	Vessel	35,000 00				35,000 00	
		Cargo	1,293 30				1,293 00	
		Wages	3,675 00				600 00	
		Personal property	3,250 00					
				43,218 30		22,000 00		36,893 00
M. Y. Davis	97	Vessel	16,100 00					
		Wages	800 00					
		Personal property	1,704 00					
				18,604 00				17,004 00
Tacony	98	Vessel	25,350 00		17,998 50		25,350 00	
		Wages	2,100 00		539 95		539 95	
		Personal property	4,022 00		772 00		772 00	
		Damages	13,500 00					
				44,072 00		19,310 45		26,661 95
Whistling Wind	99	Total claim	12,594 10	12,594 10				12,594 10
Archer	100	Total claim	4,300 00	4,300 00	4,300 00	4,300 00	4,300 00	4,300 00

EXHIBIT A.—*Sums included in the Geneva award*—Continued.

FLORIDA—Continued.

Vessel.	No.	Particulars of claim.	American claim.		British allowance.		Arbitrators' allowance.	
			Items.	Total.	Items.	Total.	Items.	Total.
Ripple	101	Vessel, outfit and catchings	$8,805 00				$8,805 00	
		Wages	950 00					
		Personal property	1,000 00					
				$10,755 00		$8,805 00		$8,805 00
		Grand total		4,618,137 88		3,025,871 00		4,051,572 80

SHENANDOAH.

Abigal	102	Vessel and outfit	$60,000 00		$39,000 00		$60,000 00	
		Profits earned	1,544 00				1,544 00	
		Wages	12,485 00		7,800 00		5,000 00	
		Personal effects	26,503 00		4,194 54		4,194 54	
				$100,532 00		$50,994 54		$70,738 54
Brunswick	103	Vessel and outfit	73,200 00		32,500 00		50,000 00	
		Profits earned	13,379 50				12,379 50	
		Wages	12,265 00		6,500 00		5,000 00	
		Personal effects	5,030 00		1,080 00		1,080 00	
				103,874 50		40,080 00		68,459 50
Catharine	104	Vessel and outfit	48,677 00		31,640 05		48,677 00	
		Profits earned	18,329 00				18,329 00	
		Wages	14,820 00		6,328 00		12,169 25	
		Personal effects	11,845 00		1,493 10		1,493 10	
				93,671 00		39,461 15		80,668 35
Congress	105	Vessel and outfit	97,000 00		36,400 00		56,000 00	
		Profits earned	33,845 00				33,845 00	
		Wages	41,310 00		7,280 00		4,500 00	
		Personal effects	5,432 00		982 00		982 00	
				177,587 00		44,662 00		95,327 00
Covington	106	Vessel and outfit	32,251 00		20,963 15		32,251 00	
		Profits earned	25,010 00				25,010 00	
		Wages	18,445 00		4,192 63		8,062 75	
		Personal effects	13,096 00		1,655 28		1,655 28	
				88,802 00		26,811 01		66,979 03
Edward Carey	107	Vessel and outfit	42,982 70		27,938 75		42,982 70	
		Wages	13,665 00		5,587 75		10,745 67	
		Personal effects	5,400 00		1,170 00		1,170 00	
		Damages	10,000 00					
				72,047 70		34,626 50		54,808 37
Euphrates	108	Vessel and outfit	59,750 00		32,500 00		50,000,00	
		Profits earned	17,814 00				17,814 00	
		Wages	12,470 00		6,500 00		5,000 00	
		Personal effects	6,813 00		3,213 00		3,213 00	
				96,847 00		42,213 00		76,027 00
Favorite	109	Vessel and outfit	110,000 00		39,000 00		60,000 00	
		Profits earned	41,070 00				41,070 00	
		Wages	12,265 00		7,800 00		5,000,00	
		Personal effects	6,359 00		2,659 00		2,659 00	
				169,694 85		49,459 00		108,729 00
General Williams	110	Vessel and outfit	73,003 85		42,365 05		73,003 85	
		Profits earned	16,292 00				16,292,00	
		Wages	19,125 00		8,473 00		7,500 00	
		Personal effects	5,485 00		1,485 00		1,485 00	
				113,905 00		52,323 06		98,280 85
Gipsey	111	Vessel and outfit	60,000 00		39,000 00		60,000 00	
		Profits earned	10,633 75				10,663 75	
		Wages	12,160 00		7,800 00		5,000 00	
		Personal effects	12,634 00		1,626 12		3,000 00	
				95,457 75		48,426 12		78,663 75
Hector	112	Vessel and outfit	81,875 00		32,500 00		50,000 00	
		Profits earned	21,346 80		113,905 85		21,346 80	
		Wages	17,010 00		6,500 00		5,000 00	
		Personal effects	5,389 00		939 00		939 00	
				125,620 80		39,939 00		77,285 80
Hillman	113	Vessel and outfit	91,250 00		39,000 00		60,000 00	
		Profits earned	10,489 75				10,489 75	
		Wages	49,960 00		7,800 00		5,000 00	
		Personal effects	5,666 75		1,216 75		1,216 75	
				157,366 50		48,016 75		76,706 50
Isaac Howland	114	Vessel and outfit	125,500 00		42,250 00		65,000 00	
		Profits earned	57,554 00				48,554 00	
		Wages	15,060 00		8,450 00		5,000 00	
		Personal effects	7,837 00		3,937 00		3,937 00	
				205,951 00		54,637 00		122,491 00
Isabella	115	Vessel and outfit	81,650 00		39,000 00		60,000 00	
		Profits earned	27,765 00				27,765 00	
		Wages	34,050 00		7,800 00		5,000 00	
		Personal effects	16,522 00		2,199 96		2,199 96	
				159,987 00		48,999 96		94,964 96
Jireh Swift	116	Vessel and outfit	60,000 00		39,000 00		60,000 00	
		Profits earned	25,500 00				25,500 00	
		Wages	15,780 00		7,800 00		7,500 00	
		Personal effects	5,993 25		2,293 00		2,293 25	
				107,273 25		49,093 00		95,293 25
Martha	117	Vessel and outfit	96,455 04		39,000 00		60,000 00	
		Profits earned	9,906 00				9,906 00	
		Wages	12,877 50		7,800 00		6,250 00	
		Personal effects	10,540 00		1,384 20		1,384 20	
				129,778 54		48,184 20		77,540 20
Nassau	118	Vessel and outfit	152,500 50		52,000 00		80,000 00	
		Profits earned	9,424 00				9,424 00	
		Wages	13,805 00		10,400 00		7,500 00	
		Personal effects	5,550 00		900 00		900 00	
				181,279 50		63,300 00		97,824 00
Nimrod	119	Vessel and outfit	79,000 00		39,000 00		60,000 00	
		Profits earned	36,781 87				27,782 00	
		Wages	41,125 00		7,800 00		5,000 00	
		Personal effects	5,218 00		1,638 00		1,638 00	
				162,124 87		48,438 00		94,420 00

EXHIBIT A.—*Sums included in the Geneva award*—Continued.

SHENANDOAH—Continued.

Vessel.	No.	Particulars of claim.	American claim.		British allowance.		Arbitrators' allowance.	
			Items.	Total.	Items.	Total.	Items.	Total.
Sophia Thornton	120	Vessel and outfit	$86,333 00		$38,533 95		$59,283 00	
		Wages	13,575 00		7,706 79		6,250 00	
		Personal effects	6,851 00		2,851 00		2,851 00	
				$106,759 00		$49,091 74		$68,384 00
Susan Abigail	121	Vessel and outfit	24,397 25		15,858 21		24,397 25	
		Cargo	18,726 12				18,726 00	
		Wages	8,920 00		3,171 64		2,500 00	
		Personal effects	4,950 00					
				56,993 37		18,029 85		45,623 25
Waverly	122	Vessel and outfit	81,250 00		32,500 00		50,000 00	
		Profits earned	34,655 00				34,655 00	
		Wages	13,860 00		6,500 00		5,000 00	
		Personal effects	5,882 00		1,732 00		1,732 00	
				135,647 00		40,732 00		91,387 00
William Thompson	123	Vessel and outfit	144,500 00		58,500 00		90,000 00	
		Profits earned	15,093 75				15,093 75	
		Wages	15,125 00		11,700 00		8,750 00	
		Personal effects	6,250 00					
				180,968 75		70,200 00		113,843 75
William C. Nye	124	Vessel and outfit	75,000 00		35,750 00		55,000 00	
		Profits earned	7,087 50				7,087 50	
William C. Nye	124	Wages	11,115 00		7,150 00		8,750 00	
		Personal effects	5,175 00		625 00		625 00	
				98,377 50		43,525 00		71,462 50
Pearl	125	Vessel and outfit	27,000 00		17,550 00		27,000 09	
		Wages	12,705 00		3,510 00		2,500 00	
		Personal effects	9,750 00		6,150 00		6,150 00	
		Damages	6,200 00					
				55,655 00		27,210 00		35,650 00
General Pike	126	Detention, &c	37,000 00	37,000 00	16,861 50	16,861 50	20,000 00	20,000 00
James Maury	127	Detention	37,000 00	37,000 00	16,861 50	16,861 50	20,000 00	20,000 00
Milo	128	Detention	37,000 00	37,000 00	16,861 50	16,861 50	20,000 00	20,000 00
Nile	129	Detention, &c	37,000 00	37,000 00	16,861 50	16,861 50	20,000 00	20,000 00
		Grand total		3,124,200 88		1,145,898 88		2,041,557 60

RECAPITULATION.

	American claim.	British allowance.	Arbitrators' allowance.
Alabama	$6,578,250 96	$3,357,362 87	$4,702,461 24
Florida	4,618,137 88	3,025,871 00	4,051,572 80
Shenandoah	3,124,200 88	1,145,898 88	2,041,557 60
Total	14,320,589 72	7,529,132 75	10,795,591 64

The above are calculated without interest, which must be added.

EXHIBIT B.

List of claims filed with the Department of State by insurance companies in the United States as per revised list of claims filed with the Department of State, growing out of the acts committed by the several vessels which have given rise to the claims generically known as the Alabama claims, and which were allowed by the Geneva tribunal.

Name and location of company, and name of vessel insured.	Amount insured.	Total.
Atlantic Mutual Insurance Company of New York City.		
Alert	$13,300 00	
Brilliant	18,000 00	
Conrad	16,570 00	
Palmetto	11,900 00	
Rockingham	40,000 00	
Amazonian	21,971 00	
Anna F. Schmidt	11,903 00	
Contest	100,000 00	
Dorcas Prince	13,026 00	
Dunkirk	10,200 00	
Golden Rule	7,912 00	
Olive Jane	3,750 00	
Talisman	67,680 00	
Sea Lark	36,968 00	
Thomas B. Wales	128,264 00	
Tycoon	121,986 00	
Union Jack	35,091 00	
Winged Racer	32,138 00	
Commonwealth	62,044 00	
Crown Point	63,753 00	
Electric Spark	11,765 00	
Jacob Bell	124,883 00	
Lapwing	55,000 00	
Redgauntlet	5,200 00	
Star of Peace	109,949 00	
Oneida	112,450 00	
Windward	3,953 00	
Umpire	21,155 00	
Corris Ann	1,000 00	
Catharine	26,676 00	

List of claims filed with the Department of State, &c.—Continued.

Name and location of company, and name of vessel insured.	Amount insured.	Total.
Congress	$35,700 00	
Covington	15,000 00	
Favorite	40,000 00	
General Williams	23,792 00	
Gipsey	10,000 00	
Hillman	26,250 00	
Isaac Howland	38,000 00	
Isabella	16,800 00	
Martha	33,200 00	
Nassau	47,500 00	
Nimrod	28,000 00	
Waverly	31,250 00	
W. C. Nye	20,000 00	
		$1,653,889 00
New York Mutual Insurance Company, New York City.		
Brilliant	9,245 00	
Amazonian	15,094 00	
Golden Rule	1,067 00	
Talisman	250 00	
Union Jack	2,500 00	
Manchester	7,500 00	
Crown Point	4,114 00	
Electric Spark	627 00	
Jacob Bell	17,500 00	
Star of Peace	11,445 00	
Oneida	20,000 00	
		89,342 00
Mercantile Mutual Insurance Company, New York City.		
S. Gildersleeve	7,500 00	
Amazonian	10,075 00	
Golden Rule	1,740 00	
Sea Bride	15,000 00	
Talisman	8,000 00	
Sea Lark	750 00	
Tycoon	90 00	
Union Jack	1,100 00	
Winged Racer	1,000 00	
Crown Point	10,700 00	

List of claims filed with the Department of State, &c.—Continued.

Name and location of company, and name of vessel insured.	Amount insured.	Total.
Jacob Bell	$15,000 00	
M. J. Colcord	3,500 00	
Redgauntlet	7,500 00	
Catharine	5,000 00	
Martha	1,000 00	
		$87,955 00
Sun Mutual Insurance Company, New York City.		
Conrad	20,000 00	
John A. Parks	7,763 00	
S. Gildersleeve	10,000 00	
Amazonian	5,725 00	
Anna F. Schmidt	2,050 00	
Dunkirk	2,350 00	
Golden Rule	700 00	
Olive Jane	719 00	
Sea Lark	450 00	
Thomas B. Wales	5,000 00	
Tycoon	16,859 00	
Union Jack	1,400 00	
Avon	9,000 00	
Commonwealth	2,887 00	
Crown Point	5,619 00	
Electric Spark	3,000 00	
Jacob Bell	22,119 00	
Redgauntlet	9,000 00	
Star of Peace	41,652 00	
William B. Nash	2,000 00	
Oneida	30,162 00	
General Williams	2,500 00	
Nassau	10,000 00	
		210,955 66
Union Mutual Insurance Company, New York City.		
S. Gildersleeve	5,000 00	
Amazonian	2,719 00	
Golden Rule	667 00	
Tycoon	653 00	
Commonwealth	5,000 00	
Crown Point	7,150 00	
Jacob Bell	7,807 00	
Star of Peace	16,282 00	
		45,278 00
Commercial Mutual Insurance Company, New York City.		
S. Gildersleeve	7,500 00	
Amazonian	6,103 00	
Golden Rule	1,394 00	
Anglo-Saxon	5,500 00	
Crown Point	4,800 00	
Electric Spark	350 00	
Jacob Bell	17,500 00	
Star of Peace	13,815 00	
		56,962 00
Pacific Mutual Insurance Company, New York City.		
Amazonian	3,385 00	
Golden Rule	800 00	
Talisman	5,269 00	
Tycoon	15,121 00	
Union Jack	1,822 00	
Winged Racer	10,000 00	
Commonwealth	13,564 00	
Crown Point	198 00	
Electric Spark	8,153 00	
Jacob Bell	10,000 00	
Star of Peace	5,000 00	
Oneida	10,000 00	
		83,312 00
New England Mutual Marine Insurance Company, Boston, Massachusetts.		
Nye	2,350 00	
Express	8,000 00	
Anna F. Schmidt	21,665 00	
Dorcas Prince	10,500 00	
Talisman	10,000 00	
Sea Lark	12,174 00	
Southern Cross	20,000 00	
W. C. Clark	5,000 00	
Commonwealth	22,500 00	
Crown Point	28,000 00	
M. Y. Colcord	500 00	
Star of Peace	12,500 00	
Oneida	23,300 00	
Isabella	1,000 00	
Avon	15,000 00	
		192,489 00
China Mutual Insurance Company, Boston, Massachusetts.		
Express	9,000 00	
John A. Parks	4,000 00	
Anna F. Schmidt	16,000 00	
Dorcas Prince	11,000 00	
Talisman	3,500 00	
Thomas B. Wales	9,200 00	
Union Jack	6,850 00	
Avon	5,000 00	
Southern Cross	15,000 00	
Jacob Bell	21,000 00	
Lapwing	20,000 00	
Redgauntlet	3,520 00	
Star of Peace	33,000 00	
		157,070 00
Commercial Mutual Marine Insurance Company, New Bedford, Massachusetts.		
Benj. Tucker	6,000 00	
Kate Cory	3,450 00	
Levi Starbuck	$3,850 00	
Nye	11,442 00	
Ocean Rover	6,500 00	
Golconda	15,960 00	
Oneida	12,017 00	
Brunswick	16,200 00	
Euphrates	9,750 00	
Hector	4,500 00	
Isaac Howland	1,000 00	
Isabella	1,000 00	
Sophia Thornton	15,000 00	
William Thompson	15,500 00	
		$122,169 00
Pacific Mutual Marine Insurance Company, New Bedford, Massachusetts.		
Benj. Tucker	1,000 00	
Kingfisher	4,700 00	
Lafayette, 2d	5,400 00	
Nye	2,000 00	
Sea Lark	1,900 00	
Golconda	4,925 00	
Oneida	100 00	
		20,025 00
Mutual Marine Insurance Company, New Bedford, Massachusetts.		
Elisha Dunbar	12,875 00	
Kate Cory	3,950 00	
Kingfisher	324 17	
Levi Starbuck	16,000 00	
Lafayette, 2d	8,125 00	
Nye	6,160 00	
Ocean Rover	7,210 00	
Virginia	10,750 00	
Oneida	10,000 00	
Hector	10,375 00	
		85,769 17
Union Mutual Marine Insurance Company, New Bedford, Massachusetts.		
Elisha Dunbar	8,500 00	
Kate Cory	812 00	
Levi Starbuck	3,500 00	
Lafayette, 2d	2,500 00	
Nye	2,900 00	
Ocean Rover	16,605 00	
Virginia	800 00	
Anna F. Schmidt	900 00	
Golconda	25,000 00	
Oneida	15,000 00	
Hector	17,000 00	
Nassau	6,000 00	
Sophia Thornton	9,000 00	
William Thompson	22,500 00	
		131,017 00
Ocean Mutual Insurance Company, New Bedford, Massachusetts.		
Golconda	10,300 00	
Sophia Thornton	3,050 00	
William Thompson	16,500 00	
		29,850 00
Delaware Mutual Safety Insurance Company, Philadelphia, Pennsylvania.		
Anna F. Schmidt	3,350 00	
Golden Rule	3,709 00	
Tycoon	1,708 00	
Commonwealth	15,763 00	
Corris Ann	4,400 00	
		28,930 00
Union Mutual Insurance Company, Philadelphia, Pennsylvania.		
Brilliant	1,975 00	
Tycoon	550 00	
Commonwealth	8,012 17	
Crown Point	2,259 87	
		12,797 04
Merchants' Mutual Marine Insurance Company, Bangor, Maine.		
Jabez Snow	6,200 00	
Amanda	2,500 00	
		8,700 00
Merchants' Mutual Insurance Company, Newburyport, Massachusetts.		
Amazonian	5,000 00	
Crown Point	9,000 00	
Star of Peace	9,076 00	
		23,076 00
Dennis and Harwich Mutual Insurance Company, West Dennis, Massachusetts.		
Southern Cross	450 00	
		450 00
Merchants' Mutual Insurance Company, Baltimore, Maryland.		
Clarence	19,400 00	
George Latimer	9,000 00	
		28,400 00
California Mutual Marine Insurance Company, San Francisco, California.		
Crown Point	10,085 00	
		10,085 00
Total claimed by mutual insurance companies		3,078,520 87
Great Western Insurance Company, New York City.		
John A. Parks	15,000 00	
S. Gildersleeve	5,000 00	

List of claims filed with the Department of State, &c.—Continued.

Name and location of company, and name of vessel insured.	Amount insured.	Total.
Wave Crest	$22,800 00	
Amazonian	3,780 00	
Anna F. Schmidt	18,156 00	
Dunkirk	8,000 00	
Golden Rule	2,950 00	
Lauretta	12,200 00	
Talisman	25,045 00	
Thomas B. Wales	4,854 00	
Tycoon	28,612 00	
Manchester	25,000 00	
Avon	30,000 00	
Commonwealth	3,720 00	
Crown Point	15,149 00	
Jacob Bell	4,369 00	
Redgauntlet	11,000 00	
Star of Peace	10,000 00	
William B. Nash	4,000 00	
Oneida	60,000 00	
		$309,635 00
Columbian Insurance Company, New York City.		
Conrad	17,205 00	
John A. Parks	14,938 00	
Lamplighter	5,000 00	
Palmetto	500 00	
Rockingham	15,000 00	
Amazonian	12,450 00	
Anna F. Schmidt	13,500 00	
Dorcas Prince	10,000 00	
Golden Rule	9,020 00	
Olive Jane	800 00	
Sea Bride	29,300 00	
Talisman	19,498 00	
Sea Lark	18,720 00	
Tycoon	19,835 00	
Winged Racer	5,000 00	
Manchester	10,000 00	
Emma Jane	29,000 00	
Highlander	21,000 00	
Sonora	30,000 00	
Ariel	8,500 00	
Golconda	17,250 00	
Anglo Saxon	7,000 00	
Avon	7,000 00	
Greenland	1,600 00	
Southern Cross	15,000 00	
Commonwealth	17,428 00	
Crown Point	34,549 00	
Electric Spark	40,900 00	
Star of Peace	10,000 00	
William B. Nash	20,500 00	
Oneida	30,000 00	
Moudamin	10,000 00	
Harriet Stevens	10,500 00	
Brunswick	8,000 00	
General Williams	22,500 00	
Gipsey	14,000 00	
Isaac Howland	16,500 00	
Isabella	3,050 00	
		575,043 00
Neptune Insurance Company, New York City.		
John A. Parks	6,000 00	
Lamplighter	3,000 00	
Talisman	5,000 00	
Manchester	5,000 00	
Anglo Saxon	6,000 00	
Commonwealth	2,000 00	
Oneida	5,000 00	
Estelle	4,000 00	
		36,000 00
Metropolitan Insurance Company, New York City.		
Anna F. Schmidt	9,000 00	
Sea Lark	2,000 00	
Tycoon	200 00	
Highlander	15,000 00	
Southern Cross	5,000 00	
Commonwealth	2,000 00	
Crown Point	1,700 00	
William B. Nash	8,849 75	
Oneida	5,000 00	
Congress	5,300 00	
Favorite	10,000 00	
Hillman	5,000 00	
Isabella	800 00	
Nassau	9,000 00	
		78,849 75
Washington Marine Insurance Company, New York City.		
Anna F. Schmidt	183 00	
Tycoon	100 00	
Anglo-Saxon	6,000 00	
Crown Point	1,587 89	
Oneida	12,500 00	
		20,370 89
Boylston Fire and Marine Insurance Company, Boston, Massachusetts.		
Express	6,000 00	
Anna F. Schmidt	5,000 00	
Dorcas Prince	10,500 00	
Thomas B. Wales	6,000 00	
Manchester	15,000 00	
Avon	6,000 00	
Commonwealth	3,000 00	
Crown Point	4,000 00	
Jacob Bell	21,000 00	
Star of Peace	21,508 00	
		98,008 00

List of claims filed with the Department of State, &c.—Continued.

Name and location of company, and name of vessel insured.	Amount insured.	Total.
Manufacturers' Insurance Company, Boston, Massachusetts.		
Lafayette, 2d	$4,000 00	
Virginia	2,000 00	
Anna F. Schmidt	25,500 00	
Olive Jane	5,000 00	
Parker Cook	26,064 56	
Sea Lark	20,636 00	
Chastelaine	11,670 55	
Commonwealth	8,700 00	
Crown Point	24,450 00	
Isaac Bell	5,800 00	
M. J. Colcord	10,000 00	
Redgauntlet	20,000 00	
Star of Peace	40,949 00	
William B. Nash	15,000 00	
		$219,770 11
Neptune Insurance Company, Boston, Massachusetts.		
Anna F. Schmidt	5,223 00	
Dunkirk	8,700 00	
Golden Rule	2,000 00	
Sea Lark	8,213 00	
M. J. Colcord	10,000 00	
Isaac Bell	800 00	
Redgauntlet	175 00	
		35,111 00
Mercantile Marine Insurance Company, Boston, Massachusetts.		
Sea Bird	10,000 00	
Sea Lark	5,000 00	
		15,000 00
Washington Insurance Company, Boston, Massachusetts.		
Express	10,000 00	
John A. Parks	10,500 00	
Anna F. Schmidt	18,210 00	
Redgauntlet	10,000 00	
Star of Peace	14,000 00	
Talisman	10,000 90	
Sea Lark	14,975 00	
		87,685 00
Equitable Safety Insurance Company, Boston, Massachusetts.		
Express	6,000 00	
Rockingham	18,500 00	
Anna F. Schmidt	8,700 00	
Union Jack	10,000 00	
Nora	20,000 00	
Commonwealth	7,500 00	
Crown Point	1,800 00	
Redgauntlet	1,000 00	
Star of Peace	8,000 00	
		81,500 00
Franklin Insurance Company, Boston, Massachusetts.		
Dorcas Prince	750 00	
Jacob Bell	3,200 00	
Star of Peace	5,000 00	
		8,950 00
Alliance Insurance Company, Boston, Massachusetts.		
Anna F. Schmidt	15,950 00	
Talisman	7,000 00	
Thomas B. Wales	5,000 00	
Commonwealth	10,000 00	
Redgauntlet	10,000 00	
		47,950 00
Boston Insurance Company, Boston, Massachusetts.		
Anna F. Schmidt	20,400 00	
Talisman	550 00	
Sea Lark	5,300 00	
Thomas B. Wales	15,052 84	
Union Jack	5,000 00	
		46,302 84
Merchants' Insurance Company, Boston, Massachusetts.		
Anna F. Schmidt	1,000 00	
Sea Lark	5,930 00	
		6,930 00
Shoe and Leather Dealers' Fire and Marine Insurance Company, Boston, Massachusetts.		
Anna F. Schmidt	5,300 00	
Sea Lark	5,450 00	
		10,750 00
National Insurance Company, Boston, Massachusetts.		
Union Jack	8,000 00	
Redgauntlet	260 00	
Star of Peace	10,000 00	
		18,260 00
American Insurance Company, Boston, Massachusetts.		
M. J. Colcord	10,000 00	
		10,000 00
Insurance Company of the State of Pennsylvania, Philadelphia, Pennsylvania.		
Commonwealth	6,100 00	
Crown Point	6,371 16	
		12,471 16
Insurance Company of North America, Philadelphia, Pennsylvania.		
Tycoon	600 00	
Crown Point	3,069 00	
Oneida	7,500 00	
		11,169 00

List of claims filed with the Department of State, &c.—Continued

Name and location of company, and name of vessel insured.	Amount of sured.	Total.
Piscataqua Fire and Marine Insurance Company, South Berwick, Maine.		
Lamplighter	$50 00	
Amazonian	4,000 00	
Sea Bride	2,700 00	
		$7,150 00
Baltimore Marine Insurance Company, Baltimore, Maryland.		
Henrietta	20,000 00	
George Latimer	14,600 00	
		34,600 00
Maryland Insurance and Security Company, Baltimore, Maryland.		
George Latimer	9,000 00	
		9,000 00
California Insurance Company, San Francisco, California.		
Anna F. Schmidt	4,473 00	
Sea Lark	1,433 00	
Commonwealth	900 00	
		6,806 00
Total claimed by stock companies		1,787,311 75

RECAPITULATION.

Claimed by mutual companies	$3,078,520 87
Claimed by stock companies	1,787,311 75
Grand Total	4,865,832 62
Number of vessels by reason of the capture whereof damages were claimed and allowed at Geneva	129
Of these were insured	89
Of these were uninsured	40

Mr. POLAND obtained the floor and said: I yield thirty minutes to the gentleman from New York, [Mr. WOODFORD.]

Mr. WOODFORD. Fifteen and one-half million dollars have been received into the Treasury of the United States, paid by Great Britain in pursuance of the decree of the highest court whereof history makes mention. This decree was entered in a suit to which nations were parties, in which nations were the judges, and of which the whole world were attentive observers. The disposition to be made of this large sum of money and the manner of that disposition, are the questions for our present decision. Let us hope that the future will set the stamp of its approval upon this the last step in this unprecedented litigation. To one point only of the many which arise do I desire to call the attention of the House, but that point seems to me the controlling one of all.

Two theories obtain touching the relationship of the Government to this fund. The one is that this money is the absolute property of the United States, that is of the whole nation, to be disposed of like other moneys in the Treasury, according to the pleasure of Congress. The other, that the Government holds this money in trust only for the benefit of those who are justly entitled to it.

To the reader of the debates in both Houses of Congress last year, in the Senate this year, and of the reports of the Judiciary Committee, it is manifest that the existence of these two theories is at the bottom of all the controversy which has arisen.

It may fairly be presumed that the leading supporters of the Senate bill, which, as amended, is now under consideration, placed in its strongest light before the Senate the argument in favor of the theory of an absolute national ownership of this fund, for upon that theory the bill as well as the substitute proposed by the majority of the House committee are based.

Let me quote their words. I read from the RECORD of May 13:

Mr. FRELINGHUYSEN. * * * The claim of the United States against Great Britain was national. It was not for individual injury. Robust debaters can go to great lengths in putting forward propositions, but I do not think any one with this treaty before him can deny that the claim made by the United States was in its character national. The treaty says: "The United States of America and Her Britannic Majesty being desirous to provide for an amicable settlement of all causes of difference between the countries." Again it says: "Whereas differences have arisen between the Government of the United States and the government of Her Britannic Majesty;" and again: "Now in order to remove and adjust all complaints and claims on the part of the United States." These expressions clearly prove the claim to have been that of the nation. * * * * *

But from the very nature of the claim of the ship-owner who lost his vessel, it cannot be individual or personal in its character. His loss was by an act of war. He had no claim against the confederacy, and still more remote would be any claim against Great Britain, the allies, or the abettors of the confederacy. If General Lee at Gettysburgh had burned down one's barn, the owner surely had no claim against the confederacy; and if Lee's army had been supplied with provisions by Canada, still less would he have had any claim against Canada. Therefore from the very nature of the claim, as well as from the repeated declarations of the treaty, the claim made by the United States was national.

Mr. EDMUNDS. But let us go a little further. I have only spoken now of the state of the case which is presented to us here, that this property was admittedly destroyed as a belligerent act by vessels of the Confederate States of America, and that Great Britain was held responsible in respect to these vessels, and in respect to this particular destruction, she, in the language of the publicists, was the ally or the associate or the assistant causing that destruction, which possibly the direct and immediate belligerent would not have been able to do, if she had not received this friendly assistance from the nation which in that respect was her ally and associate. * * * * *

Where, then, does the citizen of the United States stand in this case? He stands as a man who is the citizen of a country engaged in a public warfare; he stands as a man whose ship in that public warfare has been sunk by the cannon of the enemy; and then when we look to the reclamation we find that that public enemy was assisted in their destruction by a nation which, according to the definition of the publicists and according to the decision of this tribunal, was not in respect to these vessels a neutral nation, but that in violation of the attitude of neutrality that she pretended to occupy, she had become an ally and an assistant of the confederate forces who were making war upon us and was therefore responsible to us as a nation for the consequences of the destruction that she aided the public enemies of the United States to commit; and in that case, as I have shown from the decisions of our own courts and from the principles that the publicists have always laid down, the citizen of the United States has no individual claim against anybody.

In these two brief extracts we have the whole of the argument upon which the mistaken theory of a national ownership of this fund is based. Stripped of its verbiage we may paraphrase it thus:

The destruction of the vessels and property for which this money was awarded was the lawful act of a belligerent engaged in public war; Great Britain was the ally of the principal belligerent; for the lawful destruction of his property by one belligerent the citizen of the other belligerent has no claim for damages upon the hostile government, still less upon its ally; therefore no citizen of the United States had any claim upon the government of Great Britain for the loss of his property destroyed by the Alabama, and by consequence no citizen of the United States has any claim upon this fund, which, *ex necessitate rei*, is public property.

There, sir, is the argument and the conclusion. By that argument must the theory of national ownership of this fund stand or fall. If the argument be inadmissible, then this money is held as a trust for the benefit of those equitably entitled to it, and I do not dare to believe that any gentleman upon this floor would wish or vote to deprive the least of those of his just right.

Let us see, sir, whether our Government has hitherto taken the ground that the owners of this destroyed property had no claim against England for its value. Let us follow the action of this Government from the time when the first confederate cruiser sailed from a British port on her mission of destruction, and see whether we are at liberty to adopt this theory of a national ownership of this fifteen and one-half millions of dollars, without stultifying ourselves, and turning what is justly regarded as the most brilliant chapter of our diplomatic history into a pitiful record of public pettifogging, to the everlasting humiliation and shame of the nation.

In answer to resolutions of December 4 and 10, 1867, and May 27, 1868, the Secretary of State transmitted to the Senate a mass of correspondence concerning claims against Great Britain, which was published in 1870 in five volumes, and was subsequently presented to the tribunal at Geneva as a part of the appendix to the American case, and as constituting the bulk of the evidence on which the United States relied. In volume 3 of this correspondence, or, to use the title of the books, of the "Claims of United States against Great Britain," at page 56 is found the following dispatch:

[No. 381.]

Mr. Seward to Mr. Adams.

DEPARTMENT OF STATE,
Washington, October 25, 1862

SIR: I send herewith copies of papers which have just been received from James E. Harvey, esq., our minister at Lisbon, touching the depredations of piratical vessels built, armed, manned, and equipped in British ports, and dispatched from such ports upon the American merchant-vessels on the high seas near the Island of Flores.

The President desires that you lay copies or the substance of them before Earl Russell, in such manner as shall seem best calculated to effect two important objects: First, due redress for the national and *private* injuries sustained; and, secondly, a prevention of such lawless and injurious proceedings hereafter.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c.

The inclosures related to the destruction of the Ocmulgee, Ocean Rover, Alert, Weather Gauge, Starlight, Altamaha, Admiral Blake, Benjamin Tucker, Osceola, and Courser by the Alabama.

As directed in this dispatch, Mr. Adams, on the 20th November, 1862, addressed a communication to Earl Russell, to be found at page 70 of the same volume, in which occur these passages:

The question will then remain how far the failure of the proceedings, thus admitted to have been instituted by Her Majesty's government to prevent the departure of this vessel, affects the right of reclamation of the Government of the United States for the grievous damage done to the property of their citizens in permitting the escape of this lawless pirate from its jurisdiction.

And here it may not be without its use to call to your lordship's recollection for a moment the fact that this question, like almost all others connected with the duty of neutrals in time of war on the high seas, has been much agitated in the discussions heretofore held between the authorities of the two countries. During the latter part of the last century it fell to the lot of Her Majesty's government to make the strongest remonstrances against the fitting out in the ports of the United States of vessels with an intent to prey upon British commerce, not, however, in the barbarous and illegal manner shown to have been practiced by No. 290, but subject to the forms of ultimate adjudication equally recognized by all civilized nations. And they went the further length of urging the acknowledgment of the principle of compensation in damages for the consequences of not preventing the departure of such vessels. That principle was formally recognized as valid by both parties in the seventh article of the treaty of the 19th November, 1794, and accordingly all cases of damage previously done by capture of British vessels or merchandise by vessels originally fitted out in the ports of the United States were therein agreed to be referred to a commission provided for by that treaty to award the necessary sums for full compensation. * * * * * * * *

Armed by the authority of such a precedent, having done all in my power to apprise Her Majesty's government of the illegal enterprise in ample season for effecting its prevention, *and being now enabled to show the injurious consequences to innocent parties relying upon the* security of their commerce from any danger through British sources ensuing from the omission of Her Majesty's government, however little designed, to apply the proper prevention in due season, I have the honor to inform your lordship of the directions which I have received from my government to solicit redress for the national *and private* injuries thus sustained, as well as a more effective prevention of such lawless and injurious proceedings in Her Majesty's ports hereafter.

Earl Russell's reply to this communication, dated December 19, 1862, is to be found at page 88 of the same volume, and in it, after controverting the arguments of Mr. Adams, he says, page 92:

Her Majesty's government cannot therefore admit that they are under any obligation whatever to make compensation to United States citizens on account of the proceedings of that vessel.

Palpably Earl Russell understood that the claims of private citizens against his government were under discussion.

On the 30th of the same month Mr. Adams addressed a note to Earl Russell replying to his arguments, in which, at page 95, occurs the following passage:

If, by the preceding representation, I have succeeded in making myself clearly understood by your lordship, then will it, I flatter myself, be made to appear that in both these cases, that in 1794 as well as that in 1862, the *claim* made rests on one and the same basis, to wit, reparation by a neutral nation of a wrong done to another nation with which it is at peace, by reason of a neglect to prevent the cause of it originating among its own citizens in its own ports.

These three dispatches were forwarded by Mr. Adams to the State Department here, and on the 19th of January following, Mr. Seward wrote Mr. Adams approving his course in these words, page 113:

You have properly replied to Earl Russell's note, and cleared up the argument of the case by a paper which seems to the President as convincing as it is calm and truthful. Earl Russell's argument does not satisfy the President that redress ought not to be granted *to our citizens* for the depredations which have been committed by the 290. He trusts that your reply may yet induce a reconsideration of that subject.

Where is the intimation in this correspondence that "no citizen of the United States had or could have any claim against Great Britain by reason of the acts of this confederate cruiser No. 290," or the Alabama, as she was better known? Is not every word instinct with the affirmation of the converse of that proposition?

Can the following dispatch be reconciled with the doctrine of "no private claim?" (page 155:)

DEPARTMENT OF STATE,
Washington, June 18, 1863.

SIR: I transmit with this dispatch a copy of a letter of the 4th instant, from Edward Mott Robinson, &c., * * * relative to their claim on the British government on account of the destruction of the ship Golden Eagle by the armed insurgent steamer Alabama. As one of the claims of *citizens of the United States*, growing out of the lawless depredations upon American commerce by insurgent vessels sent out from British ports, I have to request you to bring it under the consideration of Her Majesty's government in such manner as may seem to you most appropriate.

* * * * * * *

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq.

Or this, at page 163:

DEPARTMENT OF STATE,
Washington, September 17, 1863.

SIR: I now add to the number of similar cases already intrusted to your charge that of the American bark Union Jack, destroyed by the piratical vessel, of British origin and equipment, commonly designated the Alabama, and will thank you to take such steps in the matter as shall, in your judgment, tend to secure such redress as may be justly due to the aggrieved parties from Her Britannic Majesty's government.

* * * * * * *

WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq.

Or this, page 176:

DEPARTMENT OF STATE,
Washington, October 5, 1863.

SIR: Referring to my No. 727, of the 30th ultimo, I now inclose a copy of a communication of the 1st instant, addressed to me by J. D. Jones, esq., president of the Atlantic Mutual Insurance Company of New York, relative to the claim of that company against the British government on account of losses growing out of the destruction of the American ship Brilliant, of that port.

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WILLIAM H. SEWARD.

CHARLES FRANCIS ADAMS, Esq., &c.

Mr. Speaker, further multiplication of instances is unnecessary—the book is full of them. Claim after claim was presented in the same way, invariably as the claim of an individual. Our Government insisted that each claim was valid. Great Britain denied it; negotiation ensued; the "treaty of Washington" was made. Article 1 of this treaty reads:

Whereas differences have arisen between the Government of the United States and the government of Her Britannic Majesty and still exist, growing out of the acts committed by the several vessels which have given rise to the claims generally known as the Alabama claims;

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Now, in order to remove and adjust all complaints and claims on the part of the United States, and to provide for the speedy settlement of such claims, which are not admitted by Her Britannic Majesty's Government, the high contracting parties agree that *all the said claims* growing out of acts committed by the aforesaid vessels and generically known as the "Alabama claims" shall be referred to a tribunal of arbitration," &c.

Mr. Speaker, what differences had arisen between the two governments growing out of the acts of these cruisers, except a difference of opinion as to the validity of these claims, which, in all the correspondence from which I have presented specimen extracts, have been treated and styled the claims of individuals? What question was thus referred to arbitration except the validity of these claims? Can any gentleman answer? I think not.

One other branch of the argument and I have finished. It is urged that these marauding vessels were enemy's men-of-war, lawfully cruising, and therefore for their acts no American had lawful claim against any one. Hear what the American case, prepared by our agent under State Department supervision, and presented to the tribunal under governmental sanction, says:

It has been intimated, in the course of the discussion upon these questions between the two governments, that it may be said on the part of Great Britain that its power to interfere with, to arrest, or to detain either of the belligerent cruisers whose acts are complained of ceased when it was commissioned as a man-of-war; and that, consequently, its liability for their actions ceased.

The parallel is complete between these commissions and those issued by Genet in 1793, which were disregarded by the United States at the instance of Great Britain. If a piece of paper, emanating through an English office, from men who had no nationality recognized by Great Britain, and who had no open port into which a vessel could go unmolested, was potent not only to legalize the depredations of British built and manned cruisers upon the commerce of the United States, but also to release the responsibility of Great Britain, therefor then this arbitration is indeed a farce. Such, however, cannot be the case. * * *

The United States do not deny the force of the commission of a man-of-war issuing from a recognized power. * * * They do, however, most confidently deny that the receipt of a commission by a vessel like the Alabama, or the Florida, or the Georgia, or the Shenandoah exempted Great Britain from the liability growing out of the violation of her neutrality.—*Message and Documents, Department of State*, part 2. volume 1, 1872-'73, pages 84, 85.

Mr. Speaker, in view of this consistent record, bearing in mind the two circulars from the State Department, one calling upon all citizens to file their claims against foreign governments forthwith, and the other promising to present all claims filed against Great Britain to the tribunal of arbitration; and remembering that these claims so filed were presented with their accompanying proofs to this tribunal, which weighed them all and allowed a sum of money in satisfaction of such as they held valid, it seems to me that we are not now at liberty to say that we swindled Great Britain and deluded the tribunal into the allowance of a sum of money in satisfaction of a groundless claim for damages.

However captivating the sophistry, nay, further, even conceding the truth of the argument and the fact, the United States is estopped on the record to deny that this money was awarded in respect of a number of private claimants. Who they are and to what sums entitled, it seems to me, is no question for this body to decide. Investigations of this sort belong properly to the courts. Let us refer all claimants alike to some fitting tribunal to whose decision no exception can be taken, and in such reference let us not stultify ourselves, and insult the law-abiding spirit of the country by shutting the court-room door in the face of any. It is the proudest boast of our country that here before the law all are equal. The present is not the time nor is this the occasion to proclaim the opposite rule.

Can any honest claimant rightly hesitate to submit his claim to the decision of a court of the United States? I think not.

What would be thought of the title of a man who should ask the passage of a law forbidding any courts to entertain an action of ejectment against him? What Congress would hasten to pass the law? So in this case, if any there be who deem themselves entitled to any share of this money, let us not refuse them their day in court for fear their claim may be a just one.

He who asks us to take such a course asks us to do injustice and to legalize wrong.

If any one is entitled to this money let him have it. If no one is entitled to it let the Government keep it. But let the question of title be judicially determined.

Now let me ask any gentleman on the opposite side of this question to tell me what difference had arisen between Great Britain and the United States? What ground of quarrel was there? What reason for war? Why it was this, and this alone—that the property of private citizens of the United States, protected by our flag, had been seized upon the ocean by armed vessels which had been fitted out in Great Britain. We claimed that our citizens were entitled to redress. We claimed that Great Britain was bound to pay the bill and make good the damage thus inflicted. Great Britain denied our claim. To avert war, we solemnly entered into compact and created this great tribunal. Laying aside the old traditions of armies and of war, in the better spirit of this nineteenth century we met as Christian nations should meet, and far beyond the ocean, among the hills of that little republic of Switzerland, the flags of two mighty nations blended together in harmony. There, setting an example for all the civilized peoples of the world, the old mother country and her child met together and held this great tribunal of amity and of justice. But we are now called upon to pettifog and to quibble. Gentlemen come into this Hall and say that we should not be bound by the decree of that high court. They say that having recovered this money we should so expend it among our people as will most benefit the re-election of some half-dozen congressmen or be most pleasing to some half-dozen constituencies.

I shall not weary you with longer detail. If I have succeeded in any manner in demonstrating that this negotiation grew out of the presentation of the claims of private citizens through the agency of the Government, I have demonstrated that this is a trust fund. But there is something higher than the argument of logical deduction. There is fact—hard, stubborn fact. There is the contemporaneous action of the time when this award was paid over—the action of the Secretary of State who received it from the agents of the British government, and of the Secretary of the Treasury who received it from Mr. Fish. I suppose that most gentlemen are familiar with the appearance of the certificate of deposit, [exhibiting a paper,] which was indorsed by Mr. Fish over to the Secretary of the Treasury. I

suppose most of you are familiar with the appearance of the bond, [exhibiting another paper.] Is it the habit of the Government to take its own money, put it into its own Treasury, hold it as its own gold, and then issue a bond acknowledging its indebtedness therefor and promising to pay it to somebody? Is it the habit of this Government to put $15,500,000 into the gold vaults of the Treasury on the one hand and add $15,500,000 to the funded debt of the Government upon the other unless that money is borrowed or received as a trust? Let me read the bond which was issued, and of which I hold a photographic copy in my hand:

The United States of America are indebted to the Hon. Hamilton Fish, Secretary of State, *in trust*, to be held subject to the future disposition of Congress, in the sum of $15,500,000.

Now, I frankly admit that we have that last power of sovereignty—the bald, bare power that "might makes right"—that we may do as we will with whatever is in our grasp. We do not allow our citizens to sue us; so that if we make misuse of the property that is in our hands the citizen is without redress. But, gentlemen, we are morally bound by a law which presses upon judgment, which presses upon the conscience, that having received this money, having issued this bond therefor and in recognition of that trust, we shall distribute the fund, not according to whim, not according to prejudice, but in obedience to the higher, the divine law of absolute justice between the Government and its citizens, and in faithful accord with the letter and spirit of the trust under which we received it into our keeping.

I thank the House most kindly for this patient hearing upon so hot an afternoon. All that I ask the House to do is this: Put this fund at the disposal of some competent tribunal; then allow every man who has a claim, or who thinks that he has a claim, to go into that court and litigate for his right. When that is done, let the court make its award, let the nation bow thereto, and let us add to the grand example of the treaty at Washington and the tribunal at Geneva the grander example of a strong nation submitting its claim and the claims of all its citizens to the law, and bowing with equal submission to the fiat of our highest court of justice.

Mr. POLAND. Mr. Speaker, there is not in the congressional district that I have the honor to represent, nor in the State of Vermont, of which it is a part, any person to my knowledge who has the slightest interest in the Geneva award. I have never heard of any constituent of mine or of any citizen of my State that would be benefited or injured in the slightest degree by the disposition to be made of this $15,500,000. Therefore, Mr. Speaker, in the consideration of this matter in committee, in the consideration of it here, in my action upon it throughout, I have no interest whatever except that the honor and good faith of this nation shall be maintained; that we should show not only to our own citizens but to all the world that in this grave matter we are to maintain and will maintain the highest honor and the extremest good faith.

What I have already said, Mr. Speaker, will show that I have no constituency to be flattered by a speech. There is nobody that I can especially please by what I may say in reference to this matter; and I may give that as one excuse for not having prepared any speech upon this subject. Indeed, Mr. Speaker, it seems to me that it is a work of supererogation to prepare a speech or to go into any nice learning upon this subject. For it seems to me that upon the plainest principles of common honesty and common justice this case stands without any question and without any doubt.

Now, what is the case that we have before us? During the late war between the two sections of this country the Government of the United States claimed that the government of Great Britain allowed itself to be drawn into the support and aid of that portion of our country that was undertaking to subvert our Government; that notstanding the British government was at peace with our own; notwithstanding it was its duty to abstain entirely from giving any aid or comfort to that portion of our country that was in arms against our Government, the British government did in fact do so—did in that material matter of furnishing ships of war to prey upon our commerce, furnish aid to those we were endeavoring to overcome. Although the government of Great Britain professed friendship for us, and professed to regard its treaty obligations with us, it did, as we claimed, fail to respect those obligations; and by the aid it furnished, the ships of war and the men to man ships of war to prey upon our commerce, did great damage to the citizens of the United States. We claimed it had also prolonged the war; that they had subjected the Government to a much larger expense in order to put down the rebellion. In the great variety of particulars we claimed they were liable to us as a nation, and especially we claimed they had done damage to individual citizens of the United States. We were bound as guardians of every one of our citizens to see their wrongs were redressed and the damage done to them made good.

I am not going, Mr. Speaker, into a history of this matter at all. It resulted as you know and as we all know in the treaty of Washington, and after that the award of this Geneva arbitration was made.

Now, Mr. Speaker, what was done by this board of arbitrators at Geneva? They went on *seriatim*. They took up the claims we presented in behalf of our Government. We claimed the war had been prolonged and the draft upon the national Treasury had been made very large in consequence of the prolongation of the war. They decided all these matters against the Government. We presented there this claim for war premiums—that a large number of our citizens had been obliged to pay increased rates of insurance in consequence of this conduct of theirs. That claim was decided by the arbitrators to stand on the general ground of general expense and damage of the war and we could not recover it, although in this bill presented by a majority of the committee, through its chairman, they have determined to include the persons who paid war premiums. These war premiums were presented before that board at Geneva, and they were *eo nomine* excluded from the award. We know just as well as we got this fifteen and a half million dollars, we know as conclusively we never got a shilling of that money in consequence of these war premiums, because the arbitrators expressly decided that was not a ground of recovery at all, and we could not be allowed a cent of that claim. Yet this bill reported by the majority of the committee provides as much for the payment of these war premiums as for anything else.

Now the gentleman from New York [Mr. WOODFORD] who preceded me has excellently well stated the precise point upon which this whole thing is to turn. Was this an award of a gross sum of money to the United States, to be disposed of according to the good will and pleasure of the Government to whomsoever they might think best entitled or most needy, or is it a sum of money that as a great nation and guardian of the individual citizens of this country who have been injured by the action of Great Britain we have collected for them and hold for them, as much as any money my friend here ever held which he collected for a client?

As I have said, Mr. Speaker, I have no time and there is no need of going into a specific history of what took place before this tribunal. The result was, one after another they decided every single claim we presented against them against us, and decided we had no claim in behalf of the Government or any individual, except for certain vessels and cargoes destroyed by three rebel cruisers they adjudged we were entitled to recover. Great Britain was found by them to have been negligent in reference to the escape of these three vessels, and for the price of every vessel and every cargo we could prove was taken and destroyed by these three rebel cruisers we were entitled to recover. Now, gentlemen who will look into the history of this award will find how it is made up. We put in the proof in reference to every one of these vessels so destroyed one after another by name, A, B, and C, the values of the vessels and their cargoes, and the arbitrators having ascertained the gross amount they computed interest on it, and that amounted to fifteen and a fraction million dollars, and in round numbers they called it fifteen and a half million dollars. There is no possibility of doubt about this. It is a matter just as clear as can be made by documentary history and proof that we have recovered just the exact price of the vessels and cargoes enumerated in the list figured up and the interest cast on that sum, and that makes this award.

Now, do we hold the money for the owners of these vessels and cargoes, or can we turn aside from the guardianship of our citizens, and say we hold this like any other money in the Treasury, to be disposed of according to our good will and pleasure, without any other limitation upon our action than our constitutional obligations? Why, Mr. Speaker, I can scarcely imagine language, I can scarcely think of words which are strong enough to express my condemnation of the utter injustice and utter bad faith of the whole principle of this bill. Why, Mr. Speaker, stealing is a soft name for it. That we should step in under the pretense that we were going to guard and protect the rights of our citizens, to see that they were made good, that we were going to stand up as their great defender and advocate, and compel the government of Great Britain to restore to us a sum of money that would make them good, and when we got it disavow the entire capacity in which we received it and in which we stood—I say, Mr. Speaker, I can scarcely frame language, and it would be scarcely proper to use language if I could think of it, which would express the condemnation and abhorrence I feel for this bill of the committee.

But, Mr. Speaker, you may go back in the history of this case. In the very outstart, long before this treaty was made, we advertised to every man who had suffered a loss, every man who had suffered by any act of theirs, inviting him to bring forward his claim and to present it here, so that we might have it in our possession and make claim for his redress at the proper time.

Mr. BUTLER, of Massachusetts. Will the gentleman allow me a question?

Mr. POLAND. Yes, sir.

Mr. BUTLER, of Massachusetts. I would like the gentleman to explain to the House how insurers who got two dollars in fact for every dollar they paid out suffered a loss?

Mr. POLAND. If the gentleman will possess his soul in patience I will endeavor to explain that matter as I understand it.

Mr. BUTLER, of Massachusetts. I will be glad if he will. It is a thing I have never yet got into my head.

Mr. POLAND. Not replying to the gentleman at this moment, but going on with the train of thought I was pursuing when I was interrupted, I was saying that in order that justice might be done to our citizens at some future day, when we had put down the rebellion and were to go in for the redress of their wrongs, we invited them to send in their claims to us. Why, sir, at one time the President of the United States recommended to Congress that the Government should pay off all these claims, that they should redeem the whole of them from first to last.

Mr. BUTLER, of Massachusetts. Will the gentleman allow me another question?

Mr. POLAND. I think I cannot yield to the gentleman, as he has two hours in which to address the House and I have only one.

Mr. BUTLER, of Massachusetts. My question is this: Do you believe the Government would have paid the insurance companies in that case?

Mr. POLAND. Certainly I do. I believe the Government was honest, and would pay the money to the persons for whom the Government received it. So I say that all through this whole matter we constantly recognized the right of the private owner, and that he was the man to be redressed. We made claims that were governmental, but every single one of these claims that were strictly governmental was disallowed. We only got allowed for the claims of private persons, or those the particular private owners whose vessels and cargoes were destroyed by certain specific rebel cruisers.

Now, Mr. Speaker, I wish to call attention to one clause of the treaty itself. The treaty provides that these arbitrators, when they have ascertained what particular ones of these rebel cruisers, if any, the government of Great Britain was liable for, might either figure up a sum and award a sum in gross, or they might fix the liability—they might merely determine which of these vessels the government of Great Britain was liable for, and provide for still another tribunal, a board of assessors before whom each one of these claimants should go to establish his individual claim.

Well, Mr. Speaker, I should like to ask you and I should like to ask the House and my friend from Massachusetts, the chairman of the committee, what possible difference does it make, in reference to the right of these persons to receive their money, whether the tribunals awarded a gross sum for all these vessels itself, or whether it merely decided that Great Britain was liable for the acts of the Alabama, of the Florida, and the rest of the rebel cruisers for which liability was established, and sent each individual claimant to a board of assessors to ascertain his particular individual damage? It would be the same thing. The point was that they were to be allowed for. As regarded the mere form in which the arbitrators chose to put it, awarding a gross sum to cover all instead of sending each individual owner to another board of assessors to determine his claim, did that vary the rights of these persons? Not at all.

And now let me come to the question which my friend from Massachusetts put to me so triumphantly. We were allowed the price of a certain number of vessels and cargoes. Now, to whom did those vessels and cargoes belong? If there was an owner who had no insurance upon his vessel, of course it belonged to him. There is no question about that. But suppose that one of those vessels for which the claims were allowed was lost and that an insurance company had paid the owner, to whom then does it belong? Why, upon every principle of law that ever has been applied by any court, an insurance company, when they have paid the owner for the loss, are subrogated to his remedies, to his rights. If they have paid him for losses for which he was entitled to recover, why they are equally entitled to recover. They stand in his place.

Mr. SPEER. Why did the insurance companies charge extra premiums if that be so?

Mr. POLAND. The risk is greater. Why do they charge any premium at all? Why does any marine insurance company, any fire insurance company, or any other company charge a premium? Why, it is to get the means to pay their losses. But it is the universal law of insurance, fire insurance, marine insurance, and all sorts of insurance, that if a loss has been occasioned by a wrong-doer, by the illegal act of somebody, and the insurer has paid for it, he is remitted and subrogated to the right of the owner to recover against the wrong-doer. The doctrine of subrogation is a doctrine established by courts of equity. It had its origin in courts of equity, and it is founded on the broadest principles of natural justice and equity.

But, says the gentleman from Massachusetts, [Mr. BUTLER,] the insurance companies made money. What of all that, Mr. Speaker? I do not go for giving insurance companies any part of this money on the ground that I have any sympathy with insurance companies. It is not a question of sympathy. It is upon the ground that we received a portion of this money for them, we got it for them, it is their money paid into our pockets. I have no particular sympathy with them. But let me put a case to my friend. Here is a man who was the owner of five vessels, and he did not get them insured at all. He concluded that he would be his own insurer. He lost one of these vessels by a rebel cruiser and he comes in with his claim. Now, would it be any answer for the gentleman from Massachusetts or some other equally ingenious gentleman to get up and say, "We can show that upon the business you did, upon the importations you made, you realized a great deal of money, more than enough to pay for the vessel that you lost?" Is not that a perfectly parallel case in principle? Would it not be just as good an answer to the vessel-owner to tell him that he made money in the business in which he was engaged, more than the amount he lost, as it is to say to the insurance companies, "Because you made money in your general business, therefore, although you paid for this particular vessel that was lost, and for which we have received the money, why, we cannot pay you?"

Mr. FRYE. I desire to ask the gentleman a question right here. Your bill provides that money shall be paid to the mutual insurance companies, to be paid out by them to those who contributed to pay the losses.

Mr. POLAND. My bill does not provide any such thing.

Mr. FRYE. Well, the bill of the committee does. I wish to make this inquiry: If the Columbian Insurance Company receives the $800,000 which it claims, to whom under this bill, will it pay that $800,000?

Mr. POLAND. I know nothing about the Columbian Insurance Company; I never heard of it before. My friend from Maine has come in with a great variety of questions here to-day that were never heard of in the committee. He seems to be delving in a new mine, to be springing questions here which were never heard of before the committee, although we have been considering this matter in committee for the whole winter, and although finally we unanimously agreed to put in the mutual insurance companies, because a mutual insurance company is nothing but a partnership.

Suppose my friend from New York before me [Mr. COX] and myself each owns a vessel, and neither is quite able to lose the whole of it, and we agree that if either of us loses his vessel the other shall contribute to pay one-half the loss, and my friend's vessel is captured by rebel cruisers, and I pay him one-half the loss; is that any reason, if we were allowed for that vessel by these arbitrators, why he should not recover the whole sum of money and pay me one-half, or why he should not be permitted to recover his half, and I mine?

But, Mr. Speaker, this bill proposed by the committee goes entirely aside from the award, although they profess in some degree to be governed by the award, and will not exactly say that the award is to have no influence. They entirely depart from the principle of the award, because the bill not only provides for vessels destroyed by the three rebel cruisers covered by the award, but it provides for paying losses on vessels destroyed by every rebel cruiser. It provides substantially that the parties shall recover for all that was presented before the arbitrators, whether allowed by the arbitrators or not, and that, as my friend will agree, covers all. It is substantially saying that this money shall be distributed to every vessel-owner whose vessel was destroyed by any rebel cruiser, whether his case was included in the award or not.

Now I want to ask you, Mr. Speaker, and every gentleman here, upon what ground is it that the owner of any vessel for which we received no money has a better claim against this fund than the man who has had his house burned during the war? Why may not gentlemen in Pennsylvania just as well come in with claims for houses destroyed in Pennsylvania, when that State was invaded by the rebels, and be paid for that loss out of the award, just as well as any vessel-owner who claims compensation for his vessel, for which we have received no money under the award?

Now my friend from Wisconsin, [Mr. ELDREDGE,] a member of the committee, carried this principle very far. He says the great damage was suffered by the whole people; that we should not pay this money received on this award to anybody, but that it should be kept in the Treasury and used for the benefit of the whole people.

Mr. ELDREDGE. Allow me to say that it is, with this exception: that if there are special reasons why any claimant should be paid he shall come to Congress, like the loser upon land during the war, and present his claim to the justice of Congress.

Mr. POLAND. My friend puts it upon the same grounds as pensioners and all those people who were peculiarly damaged by anything done during the war. But this bill is worse than that. It pays these persons whose vessels were lost by the action of other rebel cruisers than those named in the award, and for whose depredations England was held not liable; it pays for injuries that were somewhat of the same character and class, although there is this important difference, that we got the money for the one and did not for the other. The arbitrators decided that England should pay us for one class of claims and not for the other. I think the difference is not exactly slight. Still this bill provides for paying all the claims on an equal footing.

And the largest class that claim to be entitled to this award are people who paid war premiums; that is, people who got their vessels insured and paid the high premiums that prevailed during the war, and did not lose their vessels. In the first place, our Government presented that claim as a distinct and independent item before these arbitrators, and they just as distinctly decided as they decided anything whatever—just as distinctly as they decided that we should have pay for the value of the vessels and cargoes that were destroyed by the three rebel cruisers named—decided that these claims for war premiums were inadmissible, that they were a part of the general damage of war. Now when it is perfectly certain upon the record that we did not receive this money for them, when the arbitrators decided that that loss was not occasioned by the acts of Great Britain, that Great Britain was not liable to pay us anything for it, this bill provides for giving the largest portion of this $15,500,000 to that class of persons.

Every man who hears me knows that the price of everything went up during and because of the war. Insurance did not go up any more in proportion than everything else during the war. The price of blue coats was increased in proportion as much as the price of insurance upon the ocean. I know some gentlemen who upon that

very ground could come in and make just as good an equitable and legal claim against a portion of this Geneva award fund as can those persons who now come forward with their war premiums.

So without going at all into learned details of decisions of courts, without stopping to discuss, if I could, any of these nice questions of international law, I am in favor of paying this money to the very persons for whom we received it. I do not know any principle so high, I do not know any law, either international or municipal, so high as will justify us in saying, when we have collected this money for a particular class of persons, when we have received it for them by name or by a designation, that is equally as certain as names, that we can stand upon this great high principle of sovereignty, and say that all citizenship and all private right are merged in this great national sovereignty, and we can deprive our individual citizens of money that belongs to them, and which we have received for them, and divert it to somebody else, whom we may by some fancy or color consider more meritorious and deserving people than those for whom we received the money.

As I said in the outstart, my only anxiety upon this subject is that we shall take such a course with the Geneva award, that we shall so distribute it as to fulfill that high trust with which the nation is clothed under it. Now, how do I propose to do it by the substitute which I have offered for the bill of the committee? The bill which I introduced some time ago, and which I have offered as a substitute for the bill of the committee, says nothing about whom this money shall be paid to. It provides for no insurance companies. It provides for nobody by name or class.

I say that under the treaty and the award and all the records that accompany the award showing the claims that were introduced before that commission, those that were decided in our favor and those that were decided against us, there are judicial questions proper to be determined by a court, and not proper to be determined by the Congress of the United States. It is just as much a matter to be determined by a legal tribunal, and according to those great principles of equity that have been established for generations in courts of equity, as any matter of private right between individuals. Therefore my substitute proposes what I believe to be the true doctrine and theory on this subject, that is to submit this whole question to the determination of a legal tribunal, providing for an appeal to the Supreme Court of the United States in any case where the claimant of the Government considers that the decision of the circuit court is not the right and proper decision to be made in the case. All the questions involved are as I claim purely judicial, and can only be properly determined by a judicial tribunal. If the theory of the gentleman from Massachusetts is the true one, that the money is the money of the Government to dispose of at its own sovereign pleasure, I agree that Congress would be the proper tribunal to dispose of it.

I may say that in some respects the bill which I have introduced is identical or nearly so with the bill of the committee, because the machinery by which the committee propose to carry this matter into the courts is substantially taken from the bill I introduced. The bill originally before the committee provided for each claimant bringing an independent suit, so that there might be suits in the courts of the United States all over the country. The bill presented here by the majority of the committee adopts substantially the machinery of the bill which I introduced. Of course I do not complain of that.

But I do complain of the bill of the majority of the committee, because it takes the money that we collected for these people, for the owners of these vessels and gives it to others. If an insurance compary had paid the owner for his vessel, by every principle of law and right they stand in his place. When you undertake to go outside of that and say that in their general business of insurance they made money, you set up a false issue. You might just as well go before a jury and argue to them, when a man had established his clear legal right, that he was better off than the party upon the other side and could better afford to lose the money than the other could to pay it. Such an argument would be just as legitimate before a court and jury in a question of private right as the reason advanced by the chairman of the committee why insurance companies should not be paid—that they made money in their general business; and therefore, although we have got pay for the individual vessel that they paid their money for, we are not to give it to them because they have money enough without this.

Mr. WILSON, of Indiana, obtained the floor.

Mr. SPEER. Will the gentleman from Indiana yield for a motion to adjourn?

Mr. BUTLER, of Massachusetts. Let us go on a little longer.

Mr. WILSON, of Indiana. I will move to adjourn at the middle of my hour if that will suit the House. I yield twenty minutes of my time to the gentleman from Ohio, [Mr. MONROE.]

Mr. MONROE. Mr. Speaker, the gentlemen of the committee have kindly yielded to me a few moments to speak upon this question for the reason that a constituent of mine of most respectable position, and whose claims I am fully convinced are just, happens to have the greater part of what he has in the world involved in the result of this debate. I may add that when the rebel cruisers were committing their ravages upon the Atlantic Ocean, I happened to be in the service of the Government in a position which naturally made me somewhat familiar with the diplomatic correspondence that has taken place upon this subject.

Mr. Speaker, two theories are held in regard to the relations of the United States to the Geneva award. According to the *first* of these theories, the money received is a legal trust in such a sense as leaves no discretion whatever to our Government as to the classes to which it shall be distributed. The limitations which the Geneva tribunal found it convenient to impose upon its own action are absolutely binding upon the United States in its action. The measure there agreed upon of obligation on the part of Great Britain toward the United States is the exact measure of obligation on the part of the United States toward its citizens. In other words, this nation appeared at Geneva merely as an attorney to make collections for clients, and can honorably use no more discretion than an attorney in settling with clients.

The *second* theory maintains that the money was awarded and paid to the United States as such for injuries inflicted upon the United States, and brings with it no obligation limiting the freedom of its action except the general one to do what is right and just to all concerned.

First. In the endeavor to determine which of these theories is the sound one, we naturally find our first resource in the voluminous literature of our diplomatic history from the year 1861 to the year 1872, including as it does the whole history of the ravages of the British cruisers, the extended correspondence resulting therefrom, and the different attempts at negotiation ending finally in the treaty of Washington and the Geneva award. It would be unaccountable if this great mass of literature, containing the matured opinions of many of the ablest lawyers, statesmen, and diplomatists of this generation, should not give us some clew to the proper solution of the problem.

1. We glance first at the correspondence preliminary to the treaty of Washington, carried on between Mr. Seward and Mr. Adams, Mr. Adams and Lord John Russell, and other persons in high official position. All these volumes of diplomacy have this common character, that the United States everywhere appears complaining of wrongs done to this nation and demanding redress for the nation, while Great Britain everywhere appears defending herself from this charge and from no other. She is accused of unfriendliness, but of unfriendliness toward the United States and not toward private citizens. She is said to have failed in the proper discharge of her obligations as a neutral power toward a neighbor with whom she is at peace, and it is her constant endeavor to prove that the charge is not well grounded. Through all these years of attack and of defense, of accusation and of reply, of rejoinder and surrejoinder, the grievance under discussion is treated as one between two nations, as such, and it is never put forward anywhere as the grievance of private individuals. The United States never appears as an attorney making collections for clients, but comes forward as herself the wronged party and demanding redress for the injuries which have been inflicted upon her. Individual losses are indeed enumerated, but they are presented as evidence of hostile animus toward the United States and not toward the private citizen. The language of the United States to Great Britain is, "You have wronged me, and to me you are accountable. I will take care of my citizens and see that justice is done them."

2. If we turn next to the treaty of Washington, we find the same view of the question in issue prevailing there. The existing differences are spoken of as having arisen between the Government of the United States and the government of Her Britannic Majesty. The claims discussed are treated as claims of the United States, and the compensation contemplated is a compensation for the United States. In the seventh article we find the following provision:

> In case the tribunal find that Great Britain has failed to fulfill any duty or duties as aforesaid—

That is, duties toward the United States—

> it may, if it think proper, proceed to award a sum in gross to be paid by Great Britain to the United States for all the claims referred to it; and in such case the gross sum so awarded shall be paid in coin by the government of Great Britain to the Government of the United States at Washington within twelve months after the date of the award.

This language plainly indicates the strictly national character both of the claims and of the award made for their satisfaction.

No one who has read the treaty of Washington can have failed to notice the marked contrast in the language employed and in the provisions adopted in the case of the national claims, growing out of the ravages of British cruisers, as compared with the claims of corporations, companies, or private individuals, citizens of the United States or of Great Britain, for the satisfaction of which the treaty establishes what has been known as the mixed commission. These claims are spoken of only as the claims of private citizens; they are to be prosecuted by private citizens, either in person or by attorney, before a commission established for the purpose, and to private citizens the compensation for them is to be adjudged and paid. This contract was not accidental; it was the result of the different methods naturally employed by able and upright men in providing compensation for claims of private citizens as distinguished from those of a rational character.

3. Of that very able State paper known as the American case it may be sufficient to say that its unanswerable argument is grounded upon the same premises that have been previously maintained. The United States is an injured nation; she demands redress as such; and the tribunal at Geneva is urged to award a sum in gross as a just com-

pensation to the United States for the injuries and losses of which she complains.

4. The instructions from the Department of State to our counsel at Geneva go still further, and seem to me to come very near to settling the whole question under discussion. In these the Department not only treats the question as a national one, as distinguished from one in regard to the losses of private citizens, but it expressly declines to commit itself in any way or to give the Geneva tribunal any jurisdiction in regard to the manner in which the amount recovered shall be distributed among our own citizens. I quote from a letter addressed by Mr. Secretary Fish to Mr. Cushing under date of November 14, 1871:

> The President desires to have the subject discussed as one between the two governments, and he directs me to urge upon you strongly to secure, if possible, the award of a sum in gross. In the discussion of this question, and in the treatment of the entire case, you will be careful not to commit the Government as to the disposition of what may be awarded, or what may be recovered, in the event of the appointment of the board of assessors mentioned in the tenth article of the treaty. It is possible that there may be duplicate claims for some of the property, alleged to have been captured or destroyed, as in the cases of insurers and insured. The Government wishes to hold itself free to decide as to the rights and claims of insurers upon the termination of the case. If the value of the property captured or destroyed be recovered in the name of the Government, the distribution of the amount recovered will be made by this Government without committal as to the mode of distribution It is expected that all such committal be avoided in the arguments of counsel.

It is nowhere assumed in these instructions that American citizens may not have claims which should be paid, but it is assumed that the Geneva tribunal is not the proper court to try these claims, and that the United States reserves to herself the right to examine and decide upon them.

5. The American argument before the tribunal is conducted in the true spirit. Our counsel carefully refrained from making the committal which the Secretary of State deprecated, and urged our claims upon the tribunal as strictly national in character. I quote only two of the many passages to this effect from this convincing and well-considered paper:

> That these claims are all preferred by the United States as a nation against Great Britain as a nation, and are to be so computed and paid, whether awarded as "a sum in gross," under the seventh article of the treaty, or awarded for assessment of amounts, under the tenth article.

And again:

> This principal question having been determined, if Great Britain is held responsible for these injuries, the people of the United States expect a just and reasonable measure of compensation for the injuries as thus adjudicated, in the sense that belongs to this question of compensation as one between nation and nation.

6. The language and spirit of the decision and award itself are in entire harmony with the views here advocated. The national character of the issue is maintained throughout, and a sum in gross of fifteen and a half million dollars is awarded to the United States. No claim of a company, corporation, or private citizen is considered as such, and there is no intimation of a wish even to limit the discretion of the United States in distributing the amount among its own citizens. The agent and counsel of Great Britain expressed no wish to have any such limitation imposed upon our Government, nor would our representatives have submitted to such an attempt had it been made. It is indeed true that carefully prepared tables of individual losses were presented by our agents to the tribunal, but they were offered only as affording some imperfect measure of the wrong done to the United States. Even this purpose they accomplished only in part. Mr. Cushing informs us in his Treaty of Washington "that the result reached did not accept as binding either the tables presented by the United States, or the deductions therefrom claimed by Great Britain;" and that "one of the arbitrators expressly declared that in arriving at a conclusion the arbitrators were not to be regarded as making an assessment, or confining themselves to the schedules, estimates, or tables, of either of the two governments." Indeed, so little special consideration was given by the tribunal to the schedules offered that it felt no compunction, while making the award, in declaring that all claims known as Alabama claims, whether presented to the notice of the tribunal or not, were fully and finally settled.

It may be added in passing that it is a little remarkable, considering how much trouble in the exercise of our own discretion the Geneva award is supposed to have saved us, that so little is definitely known as to the manner in which the award was reached or what it was really for. If the award was meant to be our guide, it must be admitted that it was rather a poor one. It is said that we are allowed both principal and interest. But how much of the sum awarded is principal; how much is interest; at what rate is the interest computed? No one can tell us. How much of the fifteen and a half millions is for the ravages of the Alabama; how much for injuries inflicted by the Florida; how much for damage done by the Shenandoah and other vessels to the end of the list? No one knows. The arbitrators did not know. Still less can we find in the award any trace of the proportion intended for individual ships destroyed, and of course personal claimants utterly disappear. Is it then credible that the decision of such a question as whether Great Britain was responsible for damage done by the Shenandoah before visiting Melbourne had anything to do with the amount awarded? I think not. I have an impression, which may be right or may be wrong, in regard to the manner in which the sum in gross was reached. Several persons have been guessing about the matter, and one man's guess may perhaps be considered as good as another's. As long ago as May, 1864, Mr. Cobden had stated in the House of Commons that the direct losses to the United States from the ravages of the British cruisers amounted to three millions sterling, or $15,000,000. This statement was quoted with approval by several leading English journals, and was hailed on our side of the Atlantic as evidence of candor and fairness in the great opponent of the corn laws. The opinion expressed by Mr. Cobden was brought conspicuously to the notice of the tribunal in the American case; and I am inclined to think that when its members began to look about for such a sum as would be fair for both parties, finding that the amount of three millions sterling was somewhat fixed in the popular approval, decided upon that amount, or a sum sufficiently near it, as likely to be satisfactory to all concerned, at the same time that they deemed it just and reasonable.

Second. But it is contended that in the very nature of the case our action is circumscribed by the limitations of the tribunal. It is said that we subjected ourselves to these by the very act of going to Geneva. We have no longer any discretion; we can no longer ask what is right, what is just, what is fair, who were actual sufferers, or who merely pretend to be such. We have only left us the poor privilege of groping darkly after some rule of conduct in the Geneva award. It is urged that we submitted the whole question to Geneva. I answer, what question? The question how much, and upon what grounds England should pay us. The question on what principles we should settle with our citizens was never submitted. There is no hint of such a purpose in all the many thousand pages where our grievances are discussed. Indeed, as we have seen, express instructions to the contrary were forwarded to our counsel at Geneva. Great Britain never asked that that question should be considered by the tribunal; never expressed any interest in it, and, so far as appears, has never felt any. The tribunal never discussed it, and imposed no condition upon the United States except that it should receive the sum awarded in full of all demands. Its final words to us in substance were, "Take this; do what you please with it, but ask for no more."

1. But it is urged, with some warmth, that by presenting the claims of any class at Geneva we placed ourselves under obligation, in case those claims should be recognized, to pay them out of the fund received. This would no doubt be true had our Government made any promise to that effect either at Geneva or to its own citizens. But it at all times carefully abstained from any committal of this kind. It invited all American citizens to file their claims with the Department of State without committing itself upon the question whether it would finally pay them, and it laid all these claims before the Geneva tribunal, intending that they should serve as some measure of the losses of the United States, and be suggestive of the sum to be finally awarded. We remember that the Secretary of State himself declared "that there might be duplicate claims for some of the property alleged to have been captured or destroyed, as in the case of insurer and insured." But of this the tribunal had the same means of judging as the Secretary of State, and hence were not imposed upon by the claims presented.

2. There remains therefore but this rule for the United States to observe in the distribution of the Geneva award: to do what, all things considered, is most just and fair among its own citizens; and this can only mean to compensate as far as practicable all actual sufferers from injuries inflicted by the British cruisers whose losses have not been recovered in some other way. Could it be shown that the burden of injury has been divided equally among the whole population, the true method clearly would then be to cover the award into the Treasury to be applied to the payment of national obligations or to the reduction of taxation. But as this is not the case, the duty of the Government plainly is to indemnify to the best of its ability the real sufferers. It should pay for actual losses by the Shenandoah before going to Australia, as well as afterward, and for losses by the other cruisers, whether included in the Geneva award or not. It should pay the insurance companies so far as they can prove that their losses were not made up to them by increased war premiums. It should compensate those who paid such premiums so far as they can make it appear that they were not indemnified by larger freights and larger profits upon cargoes. The same principle should be applied to all other classes of sufferers. In fine, the nation can meet the high responsibilities resting upon it in this case only by calling into exercise the noblest attribute, whether of nations or of individuals, the attribute of justice. Let this be done, and no real sufferer will be left without compensation. In the words of one of our counsel at Geneva: "Whether the sum awarded be adequate depends in my opinion on whether distribution be made among *actual losers only* and *citizens of the United States.*"

Mr. WILSON, of Indiana. I yield for one moment to the gentleman from Massachusetts [Mr. BUTLER.]

Mr. BUTLER, of Massachusetts. I ask unanimous consent that a statement of the insurance companies, mutual and stock, which I hold in my hand may be ordered to be printed as a document, and also printed in the RECORD.

There being no objection, it was ordered accordingly.

The statement is as follows:

Statement showing the total amount of claims filed by insurance companies for losses by the Alabama, Florida, and their tenders, and by the Shenandoah after she left Melbourne; the same having been compiled from the revised list of claims, as published by the Department of State, presented to the tribunal of Geneva.

Character.	Name.	Total claims.	Remarks.
Mutual	Alliance Insurance Company, of Boston.	$47,950	
Stock	American Insurance Company, of Boston.	10,000	Solvent.
Mutual	Atlantic Mutual Insurance Company, of New York.	1,653,889	
Stock	Baltimore Marine Insurance Company, of Baltimore.	34,600	
Stock	Boston Insurance Company, of Boston.	46,303	Failed on account of Boston fire; has paid 53 per cent. of loss by the fire.
Stock	Boylston Fire and Marine Insurance Company, of Boston.	98,008	Failed on account of Boston fire; has paid 40 per cent.; will pay 3 per cent. more.
Stock	California Mutual Insurance Company, San Francisco.	6,806	
Mutual	California Mutual Marine Insurance Company, San Francisco.	10,085	
Mutual	China Mutual Insurance Company, of Boston.	172,070	
Stock	Columbian Insurance Company, of New York.	575,093	
Mutual	Commercial Mutual Marine Insurance Company, of New Bedford.	136,169	
Mutual	Commercial Mutual Insurance Company, of New York.	56,962	
Mutual	Delaware Mutual Safety Insurance Company, of Philadelphia.	28,930	
Stock	Equitable Safety Insurance Company, of Boston.	81,500	Failed and winding up.
Stock	Franklin Insurance Company, of Boston.	8,950	
Mutual	Great Western Insurance Company, of New York.	309,635	
Stock	Insurance Company of North America, of Philadelphia.	11,160	
Stock	Insurance Company State of Pennsylvania, Philadelphia.	12,471	
Stock	Manufacturers' Insurance Company, of Boston.	239,770	Failed by the Boston fire; has paid 70 per cent.; will pay about 5 per cent. more.
Stock	Mercantile Fire and Life Insurance Company, of Boston.	15,000	Solvent.
Mutual	Mercantile Mutual Insurance Company, of New York.	87,955	
Stock	Merchants' Insurance Company, of Boston.	6,930	Failed on account of losses by the Boston fire; has paid 30 per cent.; will pay about 5 per cent. more.
Mutual	Merchants' Mutual Insurance Company, Baltimore.	28,400	
Mutual	Merchants' Mutual Insurance Company, Bangor.	8,700	
Mutual	Merchants' Mutual Marine Insurance Company, Newburyport.	23,076	
Mutual	Merchants' Mutual Marine, of San Francisco.	1,000	
Mutual	Metropolitan Insurance Company, New York.	78,950	
Mutual	Mutual Marine Insurance Company, New Bedford.	85,769	
Stock	National Insurance Company, Boston.	18,360	Failed from losses by the Boston fire.
Stock	Neptune Insurance Company, Boston.	35,111	Failed from losses by the Boston fire; have paid about 40 or 50 per cent.
Stock	Neptune Insurance Company, New York.	36,000	
Mutual	New England Mutual Marine Insurance Company, Boston.	202,489	
Mutual	New York Mutual Insurance Company, of New York.	94,342	
Mutual	Ocean Mutual Insurance Company, of New York.	29,850	
Mutual	Pacific Mutual Insurance Company, of New York.	128,312	
Mutual	Pacific Mutual Insurance Company, of New Bedford.	29,925	
Stock	Shoe and Leather Marine Insurance Company, of Boston.	10,750	Failed on account of Chicago fire.
Mutual	Sun Mutual Insurance Company, of New York.	240,171	
Mutual	Union Mutual Insurance Company, Philadelphia,	12,796	
Mutual	Union Mutual Insurance Company, of New York.	49,218	
Mutual	Union Mutual Marine Insurance Company, New Bedford.	131,017	
Stock	Washington Insurance Company, of Boston.	87,685	Failed from losses by the Boston fire; has paid about 75 per cent. and will pay about 5 per cent. more.
Stock	Washington Marine Insurance Company, New York.	20,371	
Total		5,002,453	

Statement showing amount of claims held by stock and mutual companies separately.

	Mutual.	Stock.
Nine companies in New York represent	$2,699,500	
Three companies in New York represent		$631,414
Three companies in Boston represent	422,509	
Twelve companies in Boston represent		158,267
Five companies in New Bedford represent	412,730	
Seven companies in Newburyport, Bangor, and Baltimore represent	112,987	
Four companies in Newburyport, Bangor, and Baltimore represent		65,046
Total	3,647,726	1,354,727

E. R. and O. E.

NEW YORK, *June* 8, 1874.

Total claims of Boston stock insurance companies.

American Insurance Company, (solvent)	$10,000
Boston Insurance Company, (insolvent)	46,303
Boylston Insurance Company, (insolvent)	98,008
Equitable Safety Insurance Company, (insolvent)	81,500
Franklin Insurance Company, (insolvent)	8,950
Manufacturers' Insurance Company, (insolvent)	239,770
Mercantile Marine Insurance Company, (solvent)	15,000
Merchants' Insurance Company, (insolvent)	6,930
The National Insurance Company, (insolvent)	18,260
The Neptune Insurance Company, (insolvent)	35,111
Shoe and Leather Insurance Company, (insolvent)	10,750
Washington Insurance Company, (insolvent)	87,685
Total	658,267
Total claims of Boston insolvent stock insurance companies	$633,267
Total amount of claims of Boston solvent stock insurance companies	25,000
Total amount of claims of the New York stock insurance companies	631,414
Total amount of claims of the insolvent Columbian Stock Insurance Company, of New York	575,043
Total amount of claims of other stock insurance companies of New York	56,375
Total amount of claims of other stock insurance companies than those of New York and Boston	65,046

Mr. WILSON, of Indiana. I now yield seven minutes to the gentleman from Maine, [Mr. BURLEIGH.]

Mr. BURLEIGH. Mr. Speaker, if any gentlemen residing in the interior of the country think that they have no interest in this question, that only those who are concerned in navigation on the ocean are interested in it, I desire to say to those gentlemen that they and their constituents have as much interest in this award as three-fourths or nine-tenths of my constituents have. The gentleman from New York [Mr. TREMAIN] had said that these ship-owners who present their claims here are all rich, worth on an average $18,000 each. Why did he not say to the House that the ownership of many of these vessels is cut up into eighths, sixteenths, perhaps thirty-seconds or sixty-fourths. If the gentleman will come to my State, I will show him how these ship-owners live, and what many of them are doing now. And then let the gentleman go with me to where he is accustomed to go, into the gilded palaces in which the insurance companies do their business, on Broadway and State street; and into the brown-stone front houses on Fifth avenue and Beacon Hill.

Mr. Speaker, when the first vessel was captured by rebel cruisers—a ship belonging to individuals in my State—there was great interest throughout the country among ship-owners to know whether the insurance companies would pay that loss or not. The ship-owners had insured their property against the dangers of the sea and they claimed that the companies were liable for the loss. The insurance companies on the other hand claimed that such a loss was extraordinary and that the companies were not liable. The court sustained the insurance companies; and the companies did not pay any losses of that character until they had collected from the ship-owners war premiums sufficient in amount to cover the losses as they occurred.

Then was the time, Mr. Speaker, that the ship-owners of this country were between the upper and nether millstone, as it were. To lose their ship was ruin; to pay the extraordinary and, as it proved to be, exorbitant war premium, was also ruin. Many of them perhaps were compelled to put their ships under a foreign flag or see their property vanish like the dew before the morning sun. Others, more patriotic, having sailed under the old flag all over the world, could not consent to see their vessels go under a foreign flag; they paid out their money and had their vessels captured until their whole property was swept away. Thus the merchant marine of this country, that had before the war done the larger share of the carrying trade of the world, that had been the nursery for our seamen and the envy of other countries, is now classed in regard to numbers as fourth among the maritime nations of the earth.

Sir, my people conceive that the Geneva award was given to this country to remunerate the ship-owners of this country who had their vessels swept from the sea and their property destroyed by the rebel cruisers fitted out and sailing, in a manner, under the protection and in the interest of Great Britain.

Now, sir, the question before us is, who shall have this money? Shall the people who had ships, and now have neither ships nor money, be excluded? Sir, many of these men who are to-day struggling in

poverty on account of these losses would, if they had their own again, club together and once more launch their barks upon the treacherous element.

Mr. Speaker, these men should be paid; at least they should not be left out in the cold. They built up our merchant marine; they maintained a nursery for our seamen without any expense to the Government; and when the hour of conflict came they were too patriotic to abandon the flag, but paid out their money until it would have been better for them if they had allowed their ships to sink or be captured.

Sir, we hear a good deal said here about law. Now, sir, I understand that we here are law-makers, and that we have a special case before us. Let us so make the law that it will do justice in this case. It is in the interest of the nation; it is in the interest of those that favor cheap transportation; it is in the interest of those who favored deep water at the mouth of the Mississippi River; it is in the interest of every member upon this floor and his constituents I plead, as well as in the interest of those who have done business upon the water and who go down to the sea in ships. If the strong hand of the Government shall succeed in giving these people their own again, it will build up our merchant marine again to be our pride and the envy of the world. It will be the means of maintaining a nursery of seamen for our Navy without any expense to the Government. It will dot every sea with our white sails and build up our trade and commerce in every part of the world, among civilized and uncivilized nations, and fly those "Stars and Stripes" we already love so well to see wherever we are, the flag of our common country, now, thank God! no longer counted as the emblem of a nation of slaveholders.

SALLIE T. LEE.

Mr. HAZELTON, of New Jersey, by unanimous consent, introduced a bill (H. R. No. 3660) granting a pension to Sallie T. Lee; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

SCHOONER ALBA.

Mr. BUTLER, of Massachusetts, by unanimous consent, introduced a bill (H. R. No. 3661) to change the name of the schooner Alba; which was read a first and second time.

The bill, which was read, authorizes the Secretary of the Treasury to give an American register to the schooner Alba, late of Saint John's, New Brunswick, a British vessel owned by Joseph Ross and William G. Brown, citizens of the United States, wrecked on the Ipswich (Massachusetts) beach in April last past, and now having American owners, who have bought and repaired her.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BUTLER, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GEORGE W. TRUEHEART.

Mr. RUSK, by unanimous consent, introduced a bill (H. R. No. 3662) granting a pension to George W. Trueheart, late private Company F, Sixty-seventh New York Volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

FREEPORT, FLORIDA.

Mr. PURMAN, by unanimous consent, introduced a bill (H. R. No. 3663) to establish a port of entry and delivery at Freeport, Florida; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

TAMPA, FLORIDA.

Mr. PURMAN also, by unanimous consent, introduced a bill (H. R. No. 3664) to establish a port of entry and delivery at Tampa, Florida; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

BRIDGE ACROSS THE MISSISSIPPI RIVER.

Mr. BASS. I ask unanimous consent to take up and put on its passage a bill (H. R. No. 2909) to declare the bridge across the Niagara River authorized by the act of Congress approved June 30, 1870, a post-route. It comes unanimously recommended from the Committee on Railways and Canals.

The bill, which was read, provides that the modifications in the plans of the bridge authorized by the act approved on the 30th day of June, 1870, as stated in the report of the board of engineers of the War Department, dated February 7, 1871, are hereby appoved; and said bridge as constructed is hereby declared to be a lawful structure, and an established post-route for the mails of the United States.

Mr. BASS. I ask that the following papers be read.

The Clerk read as follows:

The chief clerk of the War Department, in the absence of the Secretary of War, has the honor to transmit to the House of Representatives, for the information of the Committee on Railways and Canals, report of the Chief of Engineers and Major F. Harwood, as to the merits of House bill No. 2909, "to declare the bridge across the Niagara River, authorized by the act of Congress approved June 30, 1871, a post-route."

Concurring in the views expressed in these reports, the Department finds no objection to the bill.

H. T. CROSBY,
Chief Clerk.

WAR DEPARTMENT, *June* 6, 1874.

OFFICE OF THE CHIEF OF ENGINEERS,
Washington, D. C., June 3, 1874.

SIR: The letter of the Hon. Lyman K. Bass, of the 21st of May last, requesting, in behalf of the House Committee on Railways and Canals, the opinion of the War Department as to the merits of H. R. bill No. 2909 "To declare the bridge across the Niagara River, authorized by the act of Congress approved June 30, 1870, a post-route," referred to this office for report, is herewith respectfully returned.

The letter of Mr. Bass (with inclosed bill) was referred to Major F. Harwood, Corps of Engineers, and a copy of his report thereon is herewith submitted. His views are concurred in by me.

Very respectfully, your obedient servant,

A. A. HUMPHREYS,
Brigadier-General and Chief of Engineers.

Hon. W. W. BELKNAP,
Secretary of War.

UNITED STATES ENGINEER OFFICE,
Buffalo, N. Y., May 29, 1874.

GENERAL: I have the honor to return herewith, as directed, the papers sent to me under date May 22, 1874, and to report in regard to bill H. R. No. 2909, that I see no objection whatever to its terms.

The international bridge over the Niagara River at Buffalo is finished, has been in use for some time, and is in my opinion a very satisfactory structure, fully worthy to be legalized as an established post-route. It should be remarked in this connection that certain modifications to the bridge and approaches, not noted in the report of the board of engineer officers of February 7, 1871, but subsequently given in detail in my report of October 10, 1871, and understood to have received the approval of the honorable the Secretary of War, have been effected since the final adjournment of the board. As these in my opinion are not only unobjectionable but rather advantageous, I see no objection to the bill on their account.

I am, general, very respectfully, your obedient servant,

F. HARWOOD,
Major of Engineers.

To the CHIEF OF ENGINEERS,
United States Army, Washington, D. C.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BASS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. BABCOCK, one of his secretaries, announced that the President had approved and signed bills of the following titles:

An act (H. R. No. 1934) for the relief of Pat. O. Hawes;

An act (H. R. No. 773) to reduce the area of the military reservation of Fort Sanders, and providing for the survey of said reservation as reduced;

An act (H. R. No. 955) for the relief of J. L. Tedrow, of Clarke County, Iowa;

An act (H. R. No. 2081) to facilitate the exportation of distilled spirits, and amendatory of the acts in relation thereto;

An act (H. R. No. 2090) for the relief of Jacob Harding;

An act (H. R. No. 3160) in reference to the operations of the shipping commissioners act approved June 7, 1872; and

An act (H. R. No. 2538) to legalize and establish a ponton railway-bridge across the Mississippi River at Prairie du Chien, and to authorize the construction of a similar bridge at or near Clinton, Iowa.

ENROLLED BILLS.

Mr. HARRIS, of Georgia, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 735) to increase the pensions of soldiers and sailors who have been totally disabled.

An act (H. R. No. 2453) to increase pensions in certain cases.

An act (H. R. No. 3237) to authorize "The First National Bank of Seneca" to change its name.

An act (H. R. No. 3359) fixing the time for the election of Representatives from the State of Pennsylvania to the Forty-fourth Congress.

Joint resolution (H. R. No. 107) providing for the termination of the treaty between the United States and His Majesty the King of the Belgians, concluded at Washington July 17, 1858.

Mr. PENDLETON, from the same committee, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. No. 881) fixing the times of holding the circuit court of the United States in the districts of California, Oregon, and Nevada.

DEFICIENCY BILL.

The SPEAKER appointed Mr. SWANN in place of Mr. HANCOCK, excused from service on the conference on the deficiency bill.

SOLDIERS OF THE MEXICAN WAR.

Mr. HERNDON, by unanimous consent, obtained leave to have printed in the RECORD some remarks on the bill (H. R. No. 2403) to grant pensions to the soldiers of the Mexican war.

Mr. GARFIELD. I move that the House now take a recess until half past seven.

The motion was agreed to.

The SPEAKER. The session of the House this evening, by previous order, is to be for debate only, no business whatever to be transacted. The gentleman from Tennessee, Mr. HARRISON, will be in the chair as Speaker *pro tempore*.

And thereupon (at five o'clock and ten minutes p. m.) the House took a recess until half past seven.

EVENING SESSION.

The recess having expired, the House reassembled at half past seven o'clock p. m.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*, (Mr. HARRISON.) The House, pursuant to order, meets this evening for debate only, no business whatever to be transacted. The gentleman from Virginia [Mr. HARRIS] is entitled to the floor.

Mr. HARRIS, of Virginia. I yield to the gentleman from Illinois, [Mr. ROBINSON.]

FREE TRADE AND DIRECT TAXATION.

Mr. ROBINSON, of Illinois. Mr. Speaker, for near ten years the people of my State have imposed upon me the duties of a Representative in this body. I hope it will not be considered immodest to say that my constant study has been to guard their interests. My associates here will doubtless concede that I have exhausted little time of the House, but in a quiet and I hope inoffensive way have attempted, by voting on all public questions, to do justice to my constituencies. Want of confidence in my power to advance the views I entertain upon public questions effectively has to a large extent restrained me from prominent action.

Another reason is, however, that for the greatest portion of the time I have been honored with the confidence of the people the public mind has overwhelmingly tended to the assertion of theories of government that were contrary to all my convictions of right. A terrible civil war had swung the country from its old moorings and left as its legacies a long train of evils detrimentally affecting the morals of the people and the policies of the country. While passion was triumphant the tongue of a prophet would have had no power. The conviction that their passions had cooled, that they now realize existing wrongs, and that they are willing candidly and without prejudice to consider the state of the country, is explanation of my departure from a past line of action.

It will be my effort to prove that the present chaotic condition of our business interests and the unsettled and dangerous situation of many of the States is attributable to unwise legislation, looking to the overthrow of the power of the people and the assumption of their rightful authority by the central Government.

That the policies of the republican party proceed upon false theory, which, instead of leaving the people free to as great an extent as is consistent with public safety, have resulted in aggressive restraints upon them antagonistic to republican institutions and violative of all the fundamental maxims of free government. The lethargic state of the public mind, superinduced by false assumptions of authority by those in power, has enabled monopoly, built by class legislation, dictated by the enemies of the people, to take control of their affairs, and their substance is being absorbed and their liberty imperilled.

The most common but at the same time one of the most profound maxims is, that necessity is the creator of development. To make a people great, we must impose responsibilities on them, must bring the aggregate human mind upon the theater of thought, must make it their interest to carefully deliberate upon the public welfare. Every law that unnecessarily relieves them of responsibility is a law against freedom and intellectual progress. A people little governed are greatly blessed.

The teaching of the republican party is that the central Government shall think for the people. Every energy of my life has been devoted to the assertion and vindication of the great truth that the people, to be free, must think for themselves.

The father who assumes control of the mental movements of his child, and by superior experience and mistaken affection destroys his self-reliance, ruins his child. A government that relieves the people from thought is an enemy to intellectual progress and the ally of despotism. The law of competition in thought is the foundation upon which progress and freedom rest.

Class legislation clothes its beneficiaries with the instrumentalities of power, facilitates combinations of capital, erects monopolies, and is the corner-stone of despotism, and its creature, protection, whether exhibiting itself in paternalism in government, or the erection of classes, is the delusive snare that is held out to entrap the people. One of the maxims of Bismarck is, that those who hold the money-bags are the masters of the people. The protective legislation of republican rule has forced the money-bags to the control of the banker, who, by education and interest, is the enemy of labor.

It is my purpose, in as fair and impartial a manner as history will justify, to present the record of the republican party since the conclusion of the war, and, to the extent of my humble ability, point out its errors, and indicate remedies. In the hour of conflict public servants may be excused for departure from law and principle. For that reason a generous judgment would not hold them responsible for their action during its existence, but when it has passed away the highest duty of those in authority is to allay the passions it begot and conduct the people into the pathways of peace and security. Has the republican party, who have had unrestrained control of the nation since its conclusion, been governed by this simple, inflexible rule of public conduct? Is it not true that a policy of hate and proscription in every recurring political contest is promulgated by their leaders to excite the passions of the people and divert the public mind from the encroachments of the money and political despotisms?

During the war the people of the Northwest, the section I have the honor to represent, were educated by the morbid demand for their products the war created and its attendant prosperity to believe that republican administration would make that prosperity permanent. What is now the condition of the Northwest? An inquiring man entering one of its rich regions desiring to know the condition of a people so bountifully blessed by Providence would ask, what is the debt, private and public, and who constructed and own the vast systems of rail that cross the country at every point? He would be answered that the private debt, all created since the war, was immense; that it was represented by loans made by capitalists of protected districts; that it was secured by mortgages on the homes of the people, and that the crop of mortgages were rapidly encroaching on the bounty the fields awarded to the constant toil of the laboring and agricultural class; that the railways were built largely by subsidies donated by the people; that burdensome indebtedness had been assumed by the counties for their construction, and by some mysterious process the bonds of the counties had drifted to the possession of the capitalists of protected districts. At the conclusion of the war the people of the Northwest were out of debt. After ten years of republican administration, in peace, that people occupying God's richest heritage are impoverished, their energies crippled, and their property depreciated in value.

Further investigation shows that the control and ownership of the vast system of rail of the Northwest was in capitalists of protected districts in distant States; that they were by them consolidated and centralized.

The time was when western lines of railway were independent, were instrumental in competition between the lines for the markets, and secured living rates to the people for their labor; but consolidation being accomplished competition is crushed, and the roads, instead of responding to and sympathizing with the prosperity of the West, answer the greedy demands of capital, centralized and produced for classes in distant States by protection.

It may be said that the publication of the truth tends to sectionalize the country, that its utterance is unpatriotic. How much more unpatriotic are those who use all the instrumentalities that party or money can afford to fasten a system on the country that robs those upon whom its prosperity depends to fatten the stock-jobbers and gamblers, and to deposit power over the whole producing and laboring classes in numberless diverse petty and soulless despotisms?

The consolidation of our railroads could not have been accomplished in so short a period without the rapid production and centralization of money; protection is the author of both evils. The redundancy of money produced by it for a class in a section sought avenues of investment, and stocks being the most available, the different lines of railroad were swallowed up by that class, and consolidation followed.

Let it not be charged, Mr. Speaker, that I am actuated by hostility to any section. The agriculturists and the laborers of the sections in which these beneficiaries of the Government reside representing as they do a large preponderance of the population, are as much the victims of the system as the people of the same class in other sections.

Investigation will demonstrate that the producing and laboring interests in those localities are in no more flourishing condition than in the past, and that the centralization of money in the few has erected class distinctions founded upon wealth built by the toil of the people, proscriptive and degrading in their character and unrepublican in their spirit; that protection is as well the enemy of the people in the protected districts as elsewhere. My hostility proceeds not against a section, but a class; not against the people, but against their legalized robbers.

One of the results of the unbridled control of this class is the continued oppression of the people of the lately rebellious States. They realize that so long as they can, by force, artifice, or fraud, prevent an expression of the intelligence of those States, so long as those States are represented by adventurers having no interest in their prosperity, just so long can they perpetuate wrong against the whole people.

The rebellion was bred by a wrong that was created and legalized by the nation. Slavery consolidated the hostile action of the people of the South for the perpetuation of slavery, and through the passions its assumed interest and menaced authority developed, the South was precipitated into war against the Government. The present is no appropriate time to discuss the rights or the wrongs of those engaged in the conflict; happily for humanity its deadly recitals belong to the past. Deeds of heroism, equaling if not surpassing any written or unwritten, were daily occurrences in both the hostile camps. Those who measure a people by their martial spirit, or the skill of their commanders, will on either side find that high courage and genius they admire.

I confess, Mr. Speaker, I have no admiration for war; that it is my pride and I believe my highest duty here and everywhere to use every endeavor to avert it. The war having passed away, and the people being again reunited in a common interest, my effort in the past has been, and in the future will be, to still the unholy passions it begot.

The South and the Northwest are allies by every physical, financial, and political interest. Before the war unimpeded natural laws had established reciprocal relations, which protected and enriched each of the sections; the producer of cotton and tobacco was the consumer and competitor with the world for the products of the

Northwest; but the war, with all its attendant horrors, was less destructive of the moral and material welfare of the whole country than subsequent administration of southern affairs.

It will be my attempt to demonstrate that the passions that have been brought into play since the conclusion of the war have been used by the despotic interests that now have the people under their feet, as one of the instrumentalities for the perpetuation of their power. They shrewdly calculated that it could only be secured by dividing those who ought to be friends, by warring on that reciprocity that the Almighty, by natural law, has made eternal. They realized that the genius and nobility of a people were never crushed by hostile conflict in the open field, that the slow processes of a degrading despotism, established over a prostrate people, were the instruments to crush their souls and destroy their patriotism and rising energy.

The generosity that soldiers proclaimed at the conclusion of the war was unsuited to the mad passions of the home patriots, the unholy ambition of political adventurers, and to the deadly avarice of the money-changer, who hoped to fatten through the continued misery of the people of the rebellious States.

Adventurers flocked to the South, who instead of attempting to accommodate society and labor to the new order of things; instead of encouraging the people to a combined effort to resurrect their country from the ruin of the conflict; instead of attempting to inaugurate a feeling of confidence between the lately freed black population and the white people of the South, exhausted every artifice to divide them. Professing friendship for the black, they plundered their States and robbed their people.

It is a grateful task to testify to exceptions. Many went South seeking homes and inspired by an honest desire to aid its people. Eminent among that class I may be allowed to refer to Governor Walker. The old State of Virginia has been blessed by wise and patriotic administration; her credit has been preserved and her treasury protected. Elected a Jeffersonian republican, he could only preserve her people from the rapacity of plunderers by offering defiance to the mandates of the spurious republicanism of the present. Under great difficulties he fought a noble and successful fight, and has added another brilliant page to the history of the Old Dominion, and has won the admiration of his countrymen. But the general policy of the past ten years has been, through carpet-bag rule, directed to the protection of one race—to the effort to change every moral, social, philosophical, Christian, and political principle, thereby subjecting the superior to the control of the inferior race. Let us test the wisdom of the system by a trite question. What man is there, if he had business to transact of a private character in any one of the States beleaguered by carpet-baggism, who would submit its control to the negro? If not, why willing that the highest considerations affecting the present as well as future generations should, by the exercise of national influence, be deposited with him?

The answer of republicans may be that they have no faith in the white people of the South. Have not these people signalized their greatness in the past in the field, the forum, and the closet? Their ancestry largely contributed in the creation and protection of those manifold blessings that embellished our country, until factions took the place of parties, and passion, instead of reason, assumed the empire of the public mind. Do you not realize that there must be harmony in the South between the races before prosperity can be assured? And does not the nation suffer when any of its sections are impoverished?

The white people of the South are without arms, without money, and without organization. They have in their midst a large population of a different race with equal political privileges, all believed to be loyal by the most fanatical. Is it not true that rebellion against constituted authority is not only impracticable, but impossible?

Let me further test the wisdom of the system. Will it be denied that the debts of those States, without corresponding benefits, have been increased near $100,000,000? That their people, black and white, are manacled by them, not only for the present but for future generations? That fleeing governors and plundered States are the visible evidence of its operations? Will it be denied that if, after the war, the people had been remitted to the control of those States; that if the beneficent influence of our institutions had, free from national interposition, been allowed to take their natural course, the scoundrels who robbed their treasuries, and divided and corrupted their people would have been purged from their bosom?

I have been too long in public life not to be aware that the enunciation of the truth in regard to the administration of southern affairs will be a pretext for numberless calumnies; that all the machinery that hate, supported by the power of the monopolists, will be put in motion for the destruction of any man who has the boldness to avow it; that the war, with all its attendant horrors, will be vividly portrayed and elaborated by the money-gluttons and the political and religious pharisees that have cursed the South, and through that the country, for the last eight years.

I believe, however, that the time has now arrived when the suffering that the general system of public administration has entailed will justify a full exposition of its ruinous tendencies.

The people have awakened to the reality that there is an invisible dagger being plunged into their vitals; that the rising energy and patriotism of the South is crushed under the heel of faction sustained by the power of the Government; that the prosperity of the South and the nation are relative, and that both are victims; that their energies and their labor, their products, and their natural resources, are bound in the manacles of political and money centralization erected into a despotic colossus by the insidious but iron grasp of protection.

The career of protection in its political and financial aspects carries with it the most valuable instruction to mankind; its mission has been to perpetuate fraud, encourage ignorance, and establish despotism.

Its history is written in the galling despotism it erected over the French, relieving the nobility and the priestcraft from the burdens of government until the smothered discontent of the people, resulting from ages of oppression, volcano-like, burst its chains and appalled the world by its violence; in the grasping avarice and inhuman control of England over her East India colonies, enslaving a large portion of the human race, without pretext, to secure the perpetuation of her protected kings and nobility, impoverishing a people who were rich, reducing to misery those who had been happy, while export duties from and import duties to her colonies filled the coffers of her country; is written in the history of the last ten years in this country by the overflowing treasuries of the protected class, and by the poverty of the agriculturist and laborer; by the tendency of the times to the establishment of monopolies and the destruction of private enterprise, by the erection of colossal fortunes in the few, and the impoverishment of the many. In all its career, in every department, crime stalks in its companionship, and injustice and fraud are its results.

Mr. Speaker, the next subject to which I desire to direct the attention of the House is the management of our financial affairs. The authors of the policy of exemption of the public debt from taxation claim that it was necessary to float the securities and provide the means to carry on the war. Certainly, nothing but the most vital necessity could ever have justified it. The manifold evils that have flowed from this legislative protection of capital should forever admonish mankind that war, however successful in its element of force, is always dangerous to the liberties of a people. The tendency of such a debt is to draw capital from its legitimate fields; retard the development of all the material interests; to raise the value of money, cheapen labor, and destroy the power of the people; centralize capital; make it dangerously remunerative; establish classes, and overthrow liberty.

These are the general tendencies that have resulted from the exemption of the public debt from taxation. Let us for a short time consider in detail its practical operations upon the people and our system of government. Assuming that it is conceded that competition lies at the foundation of material development, it centralizes two thousand millions of capital, exempted from all public burdens, and diverts it from all the channels of public usefulness, compels the people from their hard earnings to pay a higher rate of interest to its holders than is paid by any civilized or respectable nation on earth. It was wrung from those in authority by the shylocks when the Government was in extremity.

The national banking system, a creature organized for the protection and centralization of capital, the security for the issue of which are these exempted bonds, another creature for the centralization and protection of capital, was summoned from the public portfolios as a panacea for all our financial evils, a calm exposure of the practical workings of which, in my judgment, exhibits it as a plan for universal robbery by the money power centralized by republican legislation.

It submits the control of the finances to the bankers, whose education and whose interest it is to make money high and labor cheap. It centralizes three hundred and fifty millions of our circulating medium; withdraws it, by legislative protection, from legitimate competition with the remainder of the circulation; drives from the field all competition by private enterprise in the sale of money to the people; absorbs not only the cash but all the credit business, involving an amount many times greater than the business accomplished by the circulation; forces near half the reserves, by the operation of the laws controlling its organization, to the money centers, by authorizing certificates of redemption banks to be held by the country banks as reserves, thus presenting to the banks representing the agricultural districts the necessity of sending their money to the centers to make it profitable, the result of which is to make money redundant in the centers and deplete all the localities from which our wealth is derived; forces the money thus sent, not demanded by legitimate business interests, into stock gambling; creates watered stocks on railroads, to pay the interest on which higher rates of transportation are charged against the people; develops what are known as corners against pork, corn, wheat, and every other product by locking up the money and making them cheap when the producer holds them, and, after their purchase, locks them up against the consumer, and thereby exacts an additional and exorbitant toll against the half-starving and poorly paid laboring population; brings the people engaged in the production of wealth in competition with reckless gamblers on Wall street for the use of money; raises the rates of interest against all the valuable classes by creating fancy stocks and fancy corners, competitors for the consumption of the circulation, and finally, after withdrawing, according to the report of the Comptroller of the Currency, from the country districts $113,000,000 of the money of the people into this shameless conspiracy against their welfare this republican financial bubble bursts, and leaves the people

to the innocent amusement of holding their empty money-bags, and the redemption banks—the pets of this pet so-called republican system of finance—to which morally the faith of the Government is pledged by republican legislation, refuse the payment of the pittance deposited for safe-keeping by the laborer.

A paternal Government in their fatherly kindness have centralized all the circulation and all the credits of finance in the money-dealers; have destroyed by their legislation every vestige of competition in the sale of money to the people; have kindly given the money-dealers first 6 per cent. in gold, payable semi-annually, of the money wrung by taxation from the blood and sweat of the producers of wealth, and given to the money-dealer 90 per cent. of $395,000,000 of national-bank notes without interest, which the money-dealer loans to the people at the rates governing in the locality in which the bank is situated; have, independent of any explainable necessity, established a combination of middle-men authorized by national paternal republican legislation to receive as a bounty for their robbery of the producer and the degradation of the laborer the annual stipend out of their hard earnings of $23,700,000 in gold, payable semi-annually.

The national banks centralize money. The centralization of money if it does not result from the demands of legitimate business creates wild speculation. Wild speculation creates stock-gambling. Stock-gambling produces watered stocks, and watered stocks in railroads demanding their interest call on the farmer, mechanic, merchant, and laborer to pay his proportion to maintain a policy of paternal protection.

Boards of brokers are established in the city of New York whose business it is to sell and buy Government securities as well as fancy stocks on margins, and these securities, exempted from taxation, are used by the bankers to withdraw a large portion of the other personal wealth from State, county, and municipal taxation. A few days before assessment the holders of money in banks and otherwise telegraph to their brokers in New York to purchase for them Government bonds to an amount nearly equal to all their capital, and when the assessor comes they return him about one-twentieth of their real capital for taxation, and the other nineteen-twentieths in Government securities. By this scheme of finance, fostered and practiced by the national banks, full one-half of all the other personal property in credits and circulation is drawn from local support, and the farmer, the merchant, the mechanic, and the laborer are required to make up this dishonest subtraction of values from the assessor by the additional tolls that are imposed on their goods, lands, and stock.

Mr. Speaker, the honorable Senator from the State of Indiana, [Mr. MORTON,] in the course of remarks lately made by him, I suppose sounded the battle-cry of his followers. He says:

> The facilities and benefits of the national banking system should be extended to all the States alike, thus relieving it of its present sectional character, and that the restriction upon the amount of national-bank circulation should be removed to relieve it of its monopoly feature.

And afterward, in explanation of what he deemed its objectionable feature, says:

> I am a friend of the national banking system, believing it the best the country has ever had, and wish to relieve it of a blemish which is fast making it unpopular, and if continued will make it odious. This is its monopoly feature, and those who seek to preserve this feature are the worst enemies of the system. Even if the national banking facilities had been divided among the States according to the provisions of the law, it would be a monopoly. But when the law was violated, and a few States seized upon the greater part, almost to the exclusion, and to the great detriment of others, there is added to the monopoly an injustice which it is the part of wisdom in the friends of the banks to abolish as soon as possible.

He lays down the proposition, in substance, that its only defect results from the restriction upon its general adoption, and assumes that when that is abolished the elasticity in currency which he so much admires will be accomplished.

Let us for a limited period investigate the results of this scheme. I undertake to say that its only object is to force the greenback, which costs the people nothing, out of circulation, substitute national-bank issue therefor, and perpetuate the authority of bankers, sustained by legislative sympathy and legislative bounties. That it is a scheme of the money-holder to further monopolize control over the capital and credit of the country, and further dominate the laboring, agricultural, mercantile, and mechanical classes; that its result will be to force our people first to pay off a non-interest-bearing obligation. If the elastic financial currency policy means anything, it means that in times of scarcity it will increase, in times of redundancy contract. Is there any man wild enough to suppose that after banks are established under the national banking law, with the general privilege projected by the Senator's plan that the national banker, to accommodate public necessity, will in the case of redundant circulation patriotically close the doors of his bank and quit business?

Is it not apparent that this scheme means that on each recurring redundant period the Government will retire and pay off greenbacks, and that on each recurring period of scarcity more patriotic bankers will be called to the front to meet public exigencies; and that the whole scheme, when stripped of the mysteries in which its authors envelop it, is to compel the people to pay, first, a non interest-bearing-debt and relieve capital of the competition that its circulation affords?

The national bankers, taking advantage of the distress among the people created by their own manipulations, are attempting to further centralize the circulation and the credits; to so manacle all the industries and control labor that all effort to throw off its fatal embrace will be futile and ineffectual.

Assuming that there can be no question that it would force greenbacks out of circulation, what is its direct result upon the people? If the Government retires interest-bearing bonds, the people are saved the interest. There are four hundred millions of greenbacks, costing nothing. If an additional four hundred millions was issued and devoted to the purchase of bonds now deposited for the security of bank circulation, it would save the people twenty-four millions annually.

The Senator has rather a narrow view of the term "monopoly." If a system of national legislation that gives 6 per cent. interest in gold, paid by the people on $394,000,000, and 90 per cent. of that amount of a circulation without interest, and only subjected to a tax of 1 per cent. on the circulation, is not a monopoly in its broadest and most dangerous sense, I fail to understand its meaning. The project of the Senator, if carried out, increases it to eight hundred millions in a short time, forces the people to first pay off a non-interest-paying debt when interest-paying debt is existing, destroys all competition in the circulation, and places the whole finances of the country in the hands of middle-men, pensioned, if free banking is established, out of the sweat and labor of the people, to near fifty millions of gold annually.

If an inquisition of lunacy were summoned to determine the state of a man's mind who, when it was optional with him to postpone the payment of $10,000, either by the execution of evidences of indebtedness, bearing 6 per cent. in gold interest, payable semi-annually or the execution of evidences of indebtedness without interest, and that man should select the interest-paying security as the most expedient to promote his financial welfare, are there twelve men on this broad earth who would not decide him a man of unsound mind and appoint a conservator? The Senator, managing the business of the people, proposes to pay off first the non-interest-paying debt.

The Senator further says:

> But I dispute the proposition that the measure of the depreciation of currency is the measure of its redundancy. The depreciation does not depend upon that cause, but chiefly upon the fact that it cannot be used in the payment of the public debt, principal or interest, or in payment of duties.

I suppose it cannot be denied successfully that the measure of depreciation of currency is the measure of its redundancy when natural laws are left free to control it; but, as the Senator says, it cannot be used in payment of the public debt. Why is this? There are twelve hundred millions of the five-twenty bonds now in existence, which are by their terms payable at the option of the Government, and until republican legislation otherwise construed their meaning it was understood by the people that the principal was payable in legal-tenders. This legislation, upon the basis of the present premium, creates against the people an additional debt of over $150,000,000. But there are other artificial causes to which he fails to allude. The national banking laws drive over forty millions of the reserves to the redemption cities, by providing that certificates of redemption banks can be held to represent three-fifths of the reserves of the country banks, and certificates of the New York banks can be held to represent one-half of the reserves in the other redemption cities. It is centralized by operation of law; it can be put to no use, cannot be made available elsewhere. Not being called on by any legitimate demand of trade, it has sought stock-gambling, and is the creator of the wild speculation and recurring disasters that annually threaten our people and destroy our values.

The Comptroller of the Currency reports that at the commencement of the crisis the high rates that stock-gambling had created for money had drawn over sixty millions into the hands of the brokers from the country to the city of New York alone. Over forty millions more was in the other redemption cities, the most of which was, beyond question, absorbed by the same unhealthy influence.

Stock-gambling depends for existence on the distinction between gold and currency. It enables rings and combinations to inflate or contract values at will. The national banking system, by creating stock-gambling, is the cause of the depreciation of our currency; a signal proof of which is that when the national banks were broke and the stock boards closed, it appreciated to 6¼ per cent. discount, and when the banks resumed and the stock boards opened, it gradually assumed its old standard of depreciation.

The national banking system throws over one hundred millions of the money of the country districts to the stock board, the combined power of the whole of which was and is now used to perpetuate the distinction between gold and currency.

I voted but a few days since authorizing the Secretary of the Treasury to pay out what are falsely called reserves, $26,000,000 of which he paid without authority, for numerous reasons; one was that it did not result in adding additional annual burdens upon a people already sorely oppressed by protective legislation; another, that it to some extent robbed the advocates of national banks of a pretext for accomplishing their expansion; another, that it would save the people from the imposition of additional demands resulting from the extortion of the national banks; another, that it cripples the policy of the money centralizers, and threatens the lines of the advancing money despotism.

Were it not that stock gambling, created by the national banks and

the national banker's policy of reserves falsely held out to the people as a sure protection of depositors, absorbed near two hundred millions of the circulation and withdrew it from all useful pursuits into channels destructive of every legitimate interest, my belief is that the currency would be amply sufficient for all the demands of trade. But so long as national bankers control the circulation and credits of the country it makes but little difference what the volume of circulation is, it will be drawn into the gambling vortex, rates of interest will be high, and all useful development retarded.

The Senator refers to the fact that our imports are vastly in excess of our exports, and in the course of his speech says:

> We have told the people of the South for years that they must accept the situation. Let us try to practice what we preach. We, too, must accept the situation.

Did the Senator consider that it might be thought that the severest trials the people of the South, as well as all the other agricultural districts, have had to contend with results from protective legislation since the war; that the effort to raise the laboring class of the South, that has embellished republican legislation since the war; that resolving all that class instantly from the condition of laborers into statesmanship; that the translation of a whole race from cotton producers to legislators, and the subordination of the experienced and the intelligent—in connection with the beauties of carpet-bag administration that their protective legislation begot, to which was superadded the beneficent influence of national bankers' administration of financial affairs—had anything to do with the condition of our export trade?

Is it not true that the chief southern products are always valuable for export? Is it not true that carpet-bag administration robbed the southern people of one hundred millions, and so mortgaged their energies and absorbed their capital that they are this day poorer than they were when peace was proclaimed at Appomattox? Is it not true that national banks are charging them from 15 to 25 per cent. per annum for the use of the national-bank circulation that a kind republican administration gives those bankers for nothing? Is it not true that near ten years have elapsed since the conclusion of the war, with unbridled control assumed by the republican party, that a large number of those States are in such unsettled condition, politically, that it is thought wise to introduce the beneficent influence of the bayonet to maintain the authority of the carpet-bagger? And is it not further true that development of vast resources of export wealth has been retarded, that the investment of capital has been prevented, by the madness and fanaticism and the selfish ambition that have sustained such a policy against a brave and a generous people?

Is it not true that their lands are worth less, and that their values have been decreasing ever since the conclusion of the war? Your policy has partially destroyed the resources of the South; has largely contributed to the excess of imports over exports, for the reason that instead of encouraging the production of the great export staple of the South it has robbed the producer. Instead of reconciling all classes to the new order of things it has divided those who to promote the general welfare should co-operate; has made an uneducated class, represented by reckless adventurers, the rulers, and attempted to reduce the organized intelligence of the South to serfdom. In the pretended interest of the colored race, but in the real interest of centralization and despotism, each session gives birth to projects to harass the southern people.

Mr. Speaker, before the accession of the republican party our people elected public servants who understood that encouragement of immigration was one of their highest duties; that the public wealth was increased by it; that it would result in more rapid development of our great resources. What has been the policy of the republican party in regard to the foreigner?

The Martin Koszta case under Mr. Marcy's administration of the State Department had settled the principle that after declaration of intention to become a citizen of the United States the foreigner was entitled to the protection of the flag.

I have lately had shown me the instructions of the State Department under the republican administration of Mr. Fish, in which it is declared that no foreigner is entitled to a passport until he becomes naturalized. This decision I suppose was made upon the demand of the crowned heads of Europe, and the result is that republican rule denationalizes every man of foreign birth until he becomes a citizen. The Senator would do well to inform the German, and the Irish and all other nationalities who desire to share our heritage that they, too, "must accept the situation." It appears to me that a rightful inscription on their banners would be, protection of capital in manufactures and money, protection to the colored American citizen of African descent, and war on all the balance of peoples' industries and interests.

Having made a hasty investigation of the policies of the republican party, it will now be my effort to exhibit the remedy for their defects.

The letter of the Federal Constitution and the theory of our Government is that all officers of the national and State governments are the servants of the people. How far the theory and the law have been departed from it has been my effort to show.

Every right or responsibility not delegated by the Constitution is expressly reserved to the people and the States, and every encroachment on that principle is an aggression upon the people and war on our institutions. The whole theory of the Government rests on the proposition that the people are capable and have the right to govern themselves.

Assumption of paternalism in finance, relieving the people from responsibility, is dangerous in a twofold aspect: First, it tends to overthrow free institutions; second, it relieves the people from responsibility, and in so doing proportionately disqualifies them for control. The edicts of necessity are the authors of progress and the handmaidens of mental development. To make a people capable of governing, you must impose the responsibility of government on them. One of the profoundest errors that marks the course of republican party administration is that it is necessary to make laws establishing banks, and thereby consolidating the money interest. Money, independent of all laws for its organization, has inherent power of combination that is dangerous to the public welfare. The reason of this is obvious; it is the representative of value merely; by its constitution it antagonizes; is at war with labor, which is the real foundation upon which all values rest; its constant effort is to override and subject labor to its control. Every written law establishing money combinations adds to the inherent tendency it possesses to dominate the people. The war between capital and labor is a concomitant of all organized societies; and when capital gets the control flesh, blood, and brains are the victims. The most important of the many necessary reforms, therefore, is the total abolition of the so-called national banking system. It has none of the qualities of a pure and unselfish nationality; it is the organization of middle-men, who represent an infinitesimal fraction of our population, who through wealth which in the main has been accumulated by protective legislation, not subject to the control of the people, are made the recipients of bounty extorted from their earnings.

All laws that look to and encourage combinations of capital are laws in the interest of despotic control. Every expedient for its diffusion is in the interest of financial stability, results in a more equal distribution of our resources, more equally and more justly divides it among the people, and is a landmark of prosperity and liberty.

By the abolition of the national banks and the purchase of the five-twenty securities to an amount equal to the national-bank issue with greenbacks, the people will be saved 6 per cent. in gold annually on the amount of bonds deposited for security of their issue, resulting in the saving of the sum of twenty-odd million dollars gold each year. The money issued will go into the hands of the people; they will be remitted to the power that of right belongs to them to select their own financiers, in doing which the most conservative, economical, and upright will be made their depositories; the result of which will be that all the accumulated surplus will be devoted to legitimate pursuits and the healthy development of the locality in which it is produced. One of the glaring faults of national banking, to which I have not before adverted, is the absence of individual accountability to the people. The officers of the bank are the clerks of the directors, and the directors are the appointees of the stockholders; and when in the late crisis the banks broke, there was no one depositors could hold personally responsible. No such system without the indorsement of the Government could ever have secured the confidence of the people. The people, having too much faith in paternal control, abandoned the inquiry that belongs to their character when responsibility is imposed on them. If they expect to preserve intact their liberties, they must assume and demand control of their material interests.

Party spirit, forgetting the general welfare in devotion to men or factions, is one of the producing causes of that confidence in central infallibility that endangers the authority and the liberty of the people. The passions begotten by civil war are the most potent instrumentalities of bad men to breed those party hates and personal attachments and resentments that mislead the people and induce them to surrender their rightful authority. The greatest misfortune that can befall a free people is to submit their reason to the control of passion. The despotic monopolies against which throughout this whole country they are now organizing, result from the encroachment of their foes elevated to place by them when they had surrendered themselves to the dominion of passion. I believe in the people. Passion may for a while improperly sway their action, but civilization and freedom have been the result of their aggregate effort. They have been contending against combinations and rings, against despots and plunderers, ever since their dawn; and therefore I believe the only way to secure their moral, material, and mental advancement, is, as far as is consistent with safe organization, to submit everything to their control.

Burke, a very great man, in the zenith of his intelligence proclaimed a great truth when he said "the treasury was the state."

I propose to intrust the control of the money to the people. They will select in their neighborhoods and their counties the wisest, most conservative, and most responsible of their citizens for agents in its management. Economy and reform, legitimate business, and stable values will follow the instrumentalities that are now brought into play to create stock gambling, and all the direful influences that follow it will be swept out of existence.

The man, selected with wisdom by the people and responsible to them for the safe control of capital, will embark the money only in ligitimate pursuits. Instead of being an organization for the centralization of money, each agent so selected will be watchful of the condition of other agents; and those in control, instead of organizing raids on the producer, will be guardians for the people of financial security, and the credit and cash business of the people will be estab-

lished on a safe, permanent, and free basis. The greenbacks issued from the Treasury will pay off a debt now annually costing the people over twenty millions in gold, will go to them independent of any central authority; diffusion of capital will take the place of centralization of capital, the monopolies will be dethroned, and the people will be reinstated.

Jackson, whose genius foreshadowed the ruin that would follow the centralized power of money, appealed to the people against its encroachments, and fought a gallant and successful battle. The people are rising in their might to burst its shackles. Many of their friends may fall by the wayside, but they will win the victory, and once more, and I hope permanently, we will commence our career in the interest of freedom. An overruling Providence has marked this country as the theater on which mankind shall demonstrate their equality of rights and their power of self-government.

Another remedy, demanded by every consideration of justice, against class distinctions, and therefore in the interest of and for the protection of liberty, is that such change be made in the Federal Constitution that values instead of representation be the basis of taxation.

The legislation of the republican party has imposed internal tax, directly or indirectly resulting in the absorption of the earnings of labor. For illustration let us take two articles, tobacco and whisky. The tax and licenses imposed on the raw material, leaf-tobacco, drives the producer from the market in the sale of leaf-tobacco by retail, and compels him to sell to capital, consolidated in tobacco manufactories, submits the value of the product, and therefore the value of the labor engaged in it, to their control; has decreased the volume of its production by the imposition of so heavy a tax that it drives our producers out of the fields of competition in sale abroad.

The imposition of tax on whisky is a tax on corn, and directly and indirectly subtracts from the value of labor; directly and indirectly decreases the value and general usefulness of the unparalleled expanse of fertile fields that are the people's inheritance.

The measure of the material condition of a people is the relation of their export and import trade. If the import trade exceeds the export trade the people are becoming impoverished; if the reverse is the rule, the exports exceed the imports, they are becoming rich. Under republican administration our imports have largely exceeded our exports; that is, although our producing capacity has been increased by an addition of over four millions of population during their retention of power the whole people are poorer than they were when these self-anointed apostles of equality took possession of the Government. By the imposition of tax on tobacco and tax on whisky, every dollar of which is wrung from the producer of tobacco and corn, they not only impose unequal tax to defray the public expenditures, but they prevent legitimate demand for the surplus and discourage their production.

In respect to the two articles named the people are unequally taxed by what may appropriately be termed the moral dodge of the financiers in power. No man more deeply deplores the frailty that results in excessive use of liquor, but the way to prevent it is by appealing to the sense, the pride, the moral characteristics of its victims. Laws regulating its sale as a beverage are doubtless to some extent reformatory, but it is demanded in the useful pursuits and will aways be manufactured and consumed. The cheaper it can be manufactured, the cheaper the articles of which it is a constituent can be sold to the people; the greater the number of consumers our corn-raisers can reach, the more valuable their products, and the greater the value of their lands.

Mr. Speaker, I hold it to be true that for the good of all classes property ought to defray public expenditure. I will go further, and say that in all well-organized societies it will pay them. What is the relation of capital in lands, stocks, or any of its multifarious representatives to labor? What value would capital in the hands of the rich possess if labor did not develop its fruitfulness? The holders of capital are the dependents of labor.

By the legislation of the republican party the land-holder and the mechanic, the merchant and the professions, and the laborer are the only classes who contribute to the maintenance of the Government, while the protected manufacturer and the money and bondholder are not only exempted from the burdens of government, but are made the recipients of exorbitant tributes from their rightful gains.

The effort of the republican party and the result of protection are that the whole burden of Government is collected without regard to property. All their legislation looks to imposition of taxes upon the people. A man may be worth $100,000 in property without an individual dependent on him, his neighbor, having a large family dependent on his daily labor for the necessaries of life; consumption of supplies being the measure of revenue recovery, the poor man pays more for public support than the rich one. He pays it in the shoes and the calicoes, the cotton and woolen goods, in the stoves and the kitchen utensils. He pays it out of his hard earnings whenever he purchases an article any of whose constituents are the subjects of protection. The revenues necessary to defray the expenses of our State governments are collected on property. Suppose the revenue system of the Government under republican legislation should be attempted in the States, is there a State in the Union the people of which would not rebel against it? Let me take the State of Illinois for example. If the people there could have the practical realization of the system—if the poor man with ten children, realizing that the revenues were measured by the consumption of necessaries and not by the value of property, and that he in maintaining his family was compelled to pay more than his millionaire neighbor whose property was protected by the laws—how long would that people, of which the poor man is the representative, stand the oppression which the system begets? They would not, nor either ought they to tolerate it. Protection is the expedient that capital uses to relieve property from taxation and imposes the burdens on the masses who are poor, by compelling them to pay the public revenues to secure the necessaries of life for their families and themselves.

Assuming it to be true that land would not be valuable without its development, and its development would not be possible without labor, the value of land must proceed from labor. The same rule is applicable to all the constituents of wealth. Labor being the foundation of wealth, the hardships you impose and the extortions you exact are directly or indirectly subtracted from the wealth of the people and from the value of the representatives of wealth.

The protective legislation of the republican party makes not only the land-holder, merchant, mechanic, and professional man pay more for the nocessities that civilization demands than free trade with direct taxation exacts, but in proportion to consumption its influence reaches the laborer, and makes higher wages necessary to maintain life. Although rates may be higher, the compensation is not adequate to their wants, for the reason that the values of their products are decreased, their employers and themselves being compelled to pay out of their rightful gains the extortions of class legislation and the additional burden imposed by the withdrawal of untold millions of money and bonds from public support. The farmers, many of whom have in the past been the most determined enemies of direct taxation, are by the manipulations of rings organized and made effective by republican legislation; and the laborer, the merchant, and the mechanic, who are their allies, are compelled to pay off the revenues, from payment of which centralized capital, in protected banks, manufactories, and railroads claim vested rights by virtue of legislative exemption and legislative protection.

The first decree of free trade and direct taxation, the Constitution being so changed as to make values instead of representation the basis, would be the abolition of the civil-service system and the custom-houses, and by their abolition the countless office-holder, who are the minions of power—an army in the interest of established authority—would be swept from existence, and the States, through their local officers, would collect the national revenues.

All history teaches us that the more distant and the less responsible public servants are to the people, the more corrupt and more despotic becomes the administration of public affairs. Under the influence of direct taxation and free trade the local collectors under the immediate eye of the people, subjected to their watchful supervision, would collect the revenue. It would be the business and interest of every citizen to see that officers were honest, and that faithfulness and economy should be the rule of public conduct. The national Government would, through their representative branch, make known their money necessities, and equalize the burdens between the States in proportion to their wealth.

The hope of protectionists is that direct taxation in its operation upon the land-holding class will be unpopular. So long as the stupidity of that class who, by protection, are robbed of dollars where cents would suffice under the equalizing influence of free trade and direct taxation justifies the hope, just so long will protected classes wield the lash over the people of this country. A fair estimate of the cost of protection to the people, basing the calculation on the consumption of protected articles the profits of which go into the pockets of a class and a section, will exhibit the fact that it costs the people fourfold the amount necessary to defray all public expenditures. The impoverishment of their country by protection ruinously reduces the value of their property, and the subsidies of protection that they imperceptibly expend largely exceeds the cost of direct taxation.

Mr. Speaker, one of the most serious misfortunes that has resulted from the war is the destruction of the trade relations that existed between the cereal-growing regions of the Northwest and the cotton regions of the South, and the highest duty of Congress is the adoption of some policy that will conduce to the re-establishment of those relations.

For the benefit of the whole country the energies of the people of the cotton States should be directed to and concentrated in its production. The step necessary to accomplish this great result is to place communication on such a footing that they can secure the cheap surplus, breadstuffs and meats, of the Northwest.

Independent of every benefit that would result to each of the sections named, independent of the vastly increased production of export wealth that would result from it, the gravest political considerations demand that the two peoples be tied together by cheap lines of transfer. Although I have never believed in the policy of internal improvement by the General Government, there can be no question that for the general welfare it is now imperatively necessary that the great rivers of the Northwest and South be improved and brought into communication by such means as will prevent the breaking of bulk in the transfer.

It is imperatively necessary that we also, through some proper artificial connection between the Ohio River and the navigable waters of the Atlantic, should forever put it out of the power of carrying

interests to govern the values of the property of the people of the Mississippi Valley and the South. Improvement of the Ohio and Mississippi Rivers, improvement of the Tennessee, and its connection with the vast system of navigable rivers that traverse a large portion of the cotton-growing regions and empty into the Gulf of Mexico and the Atlantic Ocean, and the construction of canals to secure water communication from the Ohio to the Atlantic is demanded for the public safety, and by every consideration of sound policy.

Our carrying interests for shipment abroad are centralized in one locality. The public welfare demands that competing lines establishing communication with the ocean, at other and competing localities, should be encouraged.

I know little about engineering, but I am informed that these objects can be accomplished. When accomplished, you enfranchise a people who are now in bondage; you unite by the highest interests the diverse productions of the country; establish a home and always reliable demand for the surplus of the Northwest; and give renewed life to the development of our unparalleled resources for the production of cotton, the demand for which steadily increases with advancing civilization, enable us with ease to carry, and finally pay off, the immense burden that the unfortunate conflict between the sections created, and unite our whole people in bonds of interest and brotherhood that no sectional clamor can ever disturb.

It may be objected that large outlay is required to accomplish these objects. A superficial investigation has satisfied me that the highest estimate of the outlay is but small, when compared with the great benefits that would result from it. Not only would it create new home demands, but we would become successful competitors in sale of breadstuffs in Europe and throughout the world where demand exists.

Two contending ideas are presented to the people: one that they have not capacity to govern themselves wisely and therefore need masters; the other that public servants shall obey their behests and that their will secures wise administration of public affairs. It has been my attempt to prove that the first is represented by the republican party, that the second is the author of civilization, that progress and freedom are its results. The leaders of the republican party have exhibited their want of confidence in the people this session by using the morbid sentimentality of zealots to foist a so-called civil-rights bill on the country, the tendency of which is to centralize authority in the General Government and destroy the rightful power of the States and people. The colored people are already with the republican party, and their only possible object is through this legislation to establish precedent against freedom. They have further exhibited it by using a rightful demand of the people for cheap transportation to justify assumption of central authority over all carrying interests which from every consideration of sound policy should be under the control of the people in the States.

The two paths and their end and results are apparent to the most common understanding. Party republicanism is the embodiment of the despotic idea of government; real republicanism as inculcated by our fathers and ingrafted in the fundamental law; is the idealization of progress, the law of advancing civilization, and the monumentalizing of those principles that have been forged for mankind by countless battles, and by the brains of intellectual and humanitarian Titans whose names have emblazoned the history of Christian civilization for the past five hundred years. In conclusion I desire to say that if republican legislation had not created an unnatural financial condition, I should now be for hard money, believing as I do that we should be confined to the express stipulation of the Constitution, and that all credit contrivances different from the money standard of the world are in the interest of plunder. Unwise legislation has, however, in my judgment, made it necessary that we should gradually dismantle the strongholds built against the people, lest in their immediate overthrow all might be involved in ruin. Policy and principle are allies. Sound policy is the highway by which principle is applied. As illustrated by republican rule, it looks to the sustenance of money-changers, to the protection of monopolies, and to the organizing of rings. As taught, practiced, and believed in by the democratic party, sound policy is the elevation and equality of the people.

PACIFIC RAILROADS.

Mr. LUTTRELL. Mr. Speaker, at the commencement of the present session I introduced a bill directing the Attorney-General to institute and prosecute suits against the several Pacific Railroads for the collection of interest due the Government on bonds issued to aid in the construction of the several Pacific roads, and also resolutions asking that a special committee be appointed to investigate the management and affairs of the Central Pacific Railroad and its Credit Mobilier or Contract Finance Company. The bill and resolutions were referred to committees; and since that time I have endeavored by every means possible to obtain a report, and have in two instances argued the necessity for such an investigation before a committee of this House.

I merely mention this for the reason that when the Credit Mobilier investigation was ordered in the Forty-second Congress no preliminary arguments were necessary, the mover of the resolution having simply introduced the same, and by a vote of the House the investigation was ordered to be made.

By referring to the House Journal of January 6, 1873, I find that, on motion of Hon. JEREMIAH M. WILSON, the following resolution was adopted:

Resolved, That a select committee of five members of this House be appointed by the Speaker, and such committee be, and is hereby, instructed to inquire whether or not any person connected with the organization or association commonly known as the Credit Mobilier, now holds any of the bonds of the Union Pacific Railroad Company, for the payment of which or the interest thereon the United States is in any way liable; and whether or not such holders, if any, or their assignees, of such bonds, are holders in good faith and for value or procured the same illegally or by fraud; and whether or not the United States may properly refuse to pay interest thereon or the principal thereof when the same shall become due; and whether or not any relinquishment of first mortgage lien that may have heretofore been made by the United States with reference to the bonds of said railroad company may be set aside; and to inquire into the character and purpose of such organization, and what officers of the United States or members of Congress have at any time been connected therewith; what connection it had with the contracts for the construction of said Union Pacific Railroad Company, and to report the facts to this House, together with such bill as may be necessary to protect the interests of the United States on account of any of the bonds of the class hereinbefore referred to; and said committee is authorized to send for persons and papers, and to report at any time.

And the question being put, it was decided in the affirmative, (two-thirds voting in favor thereof.) So the rules were suspended and the resolution agreed to.

In accordance with this resolution Hon. JEREMIAH M. WILSON of Indiana, Hon. GEORGE F. HOAR of Massachusetts, Hon. THOMAS SWANN, Hon. Henry W. Slocum, and Hon. Samuel Shellabarger were appointed a special committee, and immediately proceeded to investigate in accordance with the resolution adopted.

In the same connection I desire to call your attention to the following resolution, offered by Hon. SAMUEL J. RANDALL on the 24th of January, 1873, and which was agreed to by the House:

Resolved, That the committee heretofore appointed by this House, of which Mr. WILSON, of Indiana, is chairman, be authorized to extend their present investigation so as to include the Central Pacific Railroad Company and its branches, with like power and for like purposes as originally given to said committee in reference to the Union Pacific Railroad Company.

The committee, in accordance with the resolution of Mr. RANDALL, partly investigated the affairs of the Central Pacific Railroad Company, as will be seen by their report of March 1, 1873, which I now read:

The special committee who were directed by resolution of the House of Representatives of January 24, 1873, "to extend their present investigation so as to include the Central Pacific Railroad Company and its branches, with like power and for like purposes as originally given to said committee in reference to the Union Pacific Railroad Company," respectfully report:

The records, documents, contracts, and books of account of the Central Pacific Railroad, including those that relate to its original construction, are at Sacramento, in the State of California. Most of its officers reside in California, as do most of the persons who were concerned in the construction of the road. If the committee had caused a subpœna to be sent for these persons, so far as their names could be seasonably ascertained here, the witnesses would not have arrived before February 13. It would undoubtedly have been essential to a complete investigation to send for other witnesses again to California, so that it would have been impossible to obtain all needful documents and witnesses during the present session. Besides, the time of the committee has been occupied constantly until Thursday, February 20, with other investigations, some of which are not yet completed.

It has been therefore manifestly impossible that your committee could during the present term make such inquiry into the matters submitted as should do justice either to the public or the corporation. We have therefore confined ourselves to inquiry whether there is probable cause for such an investigation and to determine a plan for conducting it.

The committee have examined as witnesses Charles P. Huntington, vice-president of the railroad, and Richard Franchot, whose duties to the corporation are defined by himself as "watching over the interest of the Central Pacific Railroad Company at Washington and other places, subject to the call of the president of the company." Mr. Franchot's relation to the company and to Congress may be conjectured from the following portion of his testimony, which can be found with the evidence taken concerning the Union Pacific Railroad Company, pages 688–690:

"Question. You have a general knowledge I suppose of the history of that road since 1866?

"Answer. I cannot say that I have.

"Q. What are your duties in relation to it?

"A. I take charge of its business at Washington and other places in the interim of the sessions of Congress. I am subject to the call of the vice-president.

"Q. What is the interest of the company at Washington?

"A. Nothing more nor less than the general interests of the railroad. We have to watch our interests here.

"Q. What are they?

"A. There are frequently questions coming up in Congress relating to the interests of the Central Pacific Railroad.

"Q. Then you mean that you are an agent to watch the passage of bills through Congress which might affect the interests of the company?

"A. That is so, in part.

"Q. What other agency for the company have you in Washington

"A. Not any. I am subject to the call of Mr. Huntington.

"Q. Are you a regular salaried officer of the road?

"A. Yes.

"Q. What is your salary?

"A. My salary is $20,000 a year.

"Q. And do you spend substantially your whole time here when Congress is in session?

"A. Yes, sir.

"Q. Are there any other agents of the company here while Congress is in session?

"A. Not that I am aware of.

"Q. Or officers of the road?

"A. Not that I am aware of.

"Q. At what other points besides Washington are you called upon to discharge duties in connection with your company?

"A. At no particular point. When any business occurs in the interim of the session of Congress, I am liable to be called upon to attend to it.

Q. "What kind of business is it you are called upon to attend to in the interim of Congress?

"A. I cannot say; if anything occurs where I can be useful to the company, I am liable to be called upon to attend to it.

"Q. Have you at any time been called away to look after business of the company?

"A. I do not recollect now; I have, however.

"Q. To what points have you been called?

"A. I cannot say now; I have no distinct recollection of any specific thing.

"Q. Have you been called, at any time, away from Washington to look after any specific business?

"A. No, sir; not from the city of Washington.

"Q. The business which you have been called upon to discharge, by virtue of your agency, has been at the city of Washington?

"A. Yes.

"Q. You have no recollection of being called upon to look after the interest of the company at any other point?

"A. No specific business; I cannot bring any to mind; I may have been away twenty times, but I cannot recollect now.

"Q. If there had been any business of any considerable importance that you had been called upon to attend you would recollect it, I suppose?

"A. Yes, sir."

Mr. Huntington testified as follows:

"Question. I understood you to say that there has as yet been no dividend paid by the Central Pacific Railroad Company to its stockholders?

"Answer. That is the answer I gave.

"Q. Is it not your belief that the persons who have been prominent in the management of the Central Pacific Railroad Company, including yourself, received considerable values either in moneys, bonds, or stock, as profits on contracts made for its construction?

"A. I do not think we have made as much as we would have made if we had not gone into the road.

"Q. I ask you if it is not your belief that persons active in the management of the Central Pacific Railroad Company, including yourself, received considerable values (I do not ask whether they were reasonable or unreasonable) as profits on contracts for its construction?

"A. I think we have. I think I have an interest in a contract of the Contract and Financial Company, and I think I have made some money.

"Q. Do you mean to have me understand, by the mode in which you answer that question, that any doubt exists in the mind of yourself that you have received yourself, while an officer of the Central Pacific Railroad Company, considerable values, either in money, bonds, or stocks, as profits upon contracts made for its construction?

"A. I think I have. I have received no money.

"Q. The question I now put to you is, whether you mean the committee to understand from the way in which you make that answer that you have any doubt on that subject in your mind?

"A. I am not so clear as I would like to be.

"Q. Be good enough to attend to my question. Have you any doubt in your mind that you have received considerable values, while a stockholder and officer of the Central Pacific Railroad Company, as profits on contracts made for its construction?

"A. If I have received them at all it is as a stockholder in the Contract and Finance Company.

"Q. I do not care whether you have received them as your share of the profits made by a company of which you were a member, but simply whether you have received as profits on contracts made for its construction considerable values?

"A. I think I have.

"Q. Have you any doubts of it?

"A. I have doubts about the course, but I presume I have some paper stock. If there have been any profits made by my partner I have got some of them.

"Mr. HOAR. I am going to put that question once more, and to ask you to give a frank answer to it.

"The WITNESS. I will endeavor to do so.

"Q. Have you any doubt that you have received, while an officer of this Central Pacific Railroad Company, considerable values as profits on contracts made for its construction, either in stocks, bonds, or otherwise?

"A. The only question in my mind is whether I received any considerable value. I would say that I have received, no doubt, some value. The "considerable" I would not want to say.

"Q. Is not the nominal value of the stock which you and your firm have received as profits on such contracts more than a million dollars?

"A. No; I do not think I have received a million dollars, or anything like that, in money's worth.

"Q. I ask you if the nominal value of the stock is not more than a million dollars?

"A. I should think something thereabout. Without saying positively, I should think something approximating thereto.

"Q. In stock of the Central Pacific Railroad Company?

"A. Yes.

"Q. Have you not also received considerable values in bonds or other obligations to pay money, as such profits?

"A. I have received some; I do not know what.

"Q. I am inquiring simply as to your belief as to what you or your firm have received as your share of profits on contracts for the construction of this railroad. Now I ask you if it is not your belief that your firm have received in the shape of bonds, or other obligations to pay money, considerable values as your share of such profits?

"A. My impression is that we have received some values.

"Q. In bonds?

"A. Yes; some value.

"Q. Is not that value in bonds which you have received more than $100,000, according to your belief?

"A. I should think very likely it would be. I should like to ask Mr. Hopkins, if he were here.

"Q. So should I. It is not, according to your belief, more than $500,000 which you have received in bonds?

"A. No, sir.

"Q. Give us your best judgment of the amount which you have received in bonds—yourself and your partner.

"A. I would like to answer that just as it is, but I have not the data, really, to give an intelligent answer to it. What is the question?

"Q. I ask you to state, according to your best judgment, the values which your firm has received in bonds as your share of the profits from the contracts for the construction of the Central Pacific Railroad while you were an officer?

"A. I really have not the data to give an intelligent answer. I said a hundred thousand dollars, because I think it ought to be more than that.

"Q. You have said that, in your judgment, it was more than $100,000 and less than $500,000. Can you state it any more nearly than that—somewhere between one and five hundred thousand dollars?

"A. No; I do not know that I would want to.

"Q. Is it not your belief that the practical control of the Contract and Finance Company which constructed this railroad, and the practical control of the Central Pacific Railroad Company, for which it was constructed, was at the time of the contract for its construction, and during the execution of that contract, in the same persons?

"A. It is my impression.

"Q. I do not know what precise meaning you give to the word "impression." I ask your belief.

"A. It conveys the same idea, I suppose.

"Q. The question is whether it is or not your belief that the practical control of the Contract and Finance Company and of the Central Pacific Railroad Company, at the time of the making of the contract for the construction of the road, and during its execution, was in the same parties?

"A. My impression is that it was. I should like to say that I spoke to a good many people to go into that road, and almost every person refused to do so; and we had great trouble in getting people."

It would seem from this testimony of Mr. Huntington that there is probable cause for believing that the capital of the Central Pacific Railroad Company does not represent cash, but profits on construction, and that the property of the road has passed largely into the hands of its own officers who have made contracts in its name with themselves. Whether these contracts have been lawful and justifiable it would be unjust to the parties to express an opinion here. We think they afford good reason for further inquiry.

It also appears that there is no exact statement of the real cost of the work. It is important that such a statement should now be so made as to bind both parties and preserved with reference to the right of Congress to legislate to fix fares when the net earnings amount to 10 per cent. of the cost.

The case of the Central Pacific Railroad Company differs from that of the Union Pacific Railroad Company in the essential particular that the former was created by the State of California and the latter by act of Congress. Congress has no concern with any alleged disobedience by the Central Pacific Railroad of the requirements of the act incorporating it, unless such disobedience constitutes a breach of the conditions on which the corporation accepted the grants from the Government. But Congress is concerned—

First. To see that its bounty has not been misapplied.

Second. To fix the true cost of the road.

Third. To see whether the provision of the statute of 1864, section 15, has been observed—

That the several companies authorized to construct the aforesaid roads are hereby required to operate and use said roads and telegraph for all purposes of communication, travel, and transportation, as far as the public and the Government are concerned, as one continuous line, and in such operation and use to afford and secure to each equal advantages and facilities as to rates, time, and transportation, without any discrimination of any kind in favor of the road or business of any or either of said companies, or adverse to the road or business of any or either of the others.

The select committee were evidently impressed with the belief that the evidence therein taken was of sufficient moment to warrant them in saying in relation to the contracts that "*We think they afford good reason for further inquiry;*" and in language which implies at least a doubt as to the cost of the construction of the road the committee further state, "That it is important that an exact statement of the cost of the road should be made."

Then denoting the difference between the Central Pacific and the Union Pacific—the one being created by the State of California and the other by Congress—the committee further add that Congress has no concern with any alleged disobedience by the Central Pacific of the requirements of the act incorporating it, unless such disobedience constitutes a breach of the condition on which the corporation accepted the grants from the Government. But Congress is concerned—

First. To see that the bounty has not been misapplied.

Second. To fix the true cost of the road.

And to these two provisions I desire to call the attention of this House to-night.

The report which I have just read comes from a committee, three of whom are members of this Congress; men in whom the people of the whole country repose confidence for their integrity, honor, and justice.

It shows from the testimony taken that the Central Pacific road employs annually an agent or *lobbyist*, whose duties are to watch oevr the interests of the Central Pacific Railroad Company during the sessions of Congress, and who for his diligent services receives a salary of $20,000 per annum. For this magnificent sum he is sent here to oppose all investigations asked for by the people in the name of the Government; to oppose all honest endeavors to ascertain the true status of this soulless corporation; to represent and defend oppression, wrong, and injustice, not only to the honest stockholders of the road, but to the Government, which aided in its construction. This is this man's duties, for which he receives $20,000 a year, while the company is too poor to pay a dividend to men and women who invested in the stock of the road or a cent of interest to the Government.

The same testimony shows that its vice-president has in the course of his varied life thoroughly mastered the art of "dodging a question," and within the last two weeks I have had occasion to know that he is not only a master but also a professor of that art.

Read his testimony carefully, and you will find that to no question did he give a direct answer. He is "under the impression" is almost every answer given. There is nothing positive, nothing by which he would commit himself. Every answer he made before that committee showed upon its face the dread he had of an investigation, and every action of his in opposition to my resolution shows that he and the men associated with him in the Central Pacific dread the avalanche which is slowly but surely sweeping them to destruction.

In the resolution which I have introduced asking for an investigation of this company, I have been prompted solely from a desire to represent the wishes of my constituents, who are thoroughly conversant with the frauds committed by this corporation, and to perform an honest conviction of duty I owe both to them and my country; to respond to a solemn oath which I registered on taking my seat as a Representative to protect the best interests of my Government and the welfare and prosperity of the people of our common country.

I am in favor of these Pacific Railroads; I am in favor of any enterprise that develops the resources of our nation; but I want these corporations to respect the wishes of the people, to pay their honest debts, to oppress no man, and to deal justly with the Government and the people.

With these ends in view, on the 12th day of last January I presented

the resolution to which I have referred, and which I will now read:

Whereas the Central Pacific Railroad Company was incorporated by the State of California on the 27th day of June, A. D. 1861, to construct a railroad to the eastern boundary of said State; and whereas by acts of Congress of the years 1862 and 1863 said company was authorized to extend said railroad eastward through the territory of the United States, by an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean," and received from the United States, under said act and the acts supplemental thereto and amendatory thereof, and from the State of California, and counties and corporations within said State, from the State of Nevada, and from the Territory of Utah, the following amounts, estimated in gold coin, to wit:

Land granted by the United States of the value, in gold coin, of...	$50,288,000 00
Granted and donated by various corporations within the State of California	5,000,000 00
Gratned and donated by various corporations and individuals situate within the State of Nevada	3,000,000 00
Granted and donated by various corporations and individuals within the Territory of Utah	1,500,000 00
Donated by the State of California	1,500,000 00
Bonds on which the State of California guarantees and pays the interest	12,000,000 00
Donated by the county of Placer, in the State of California, bonds..	250,000 00
Donated by the city and county of San Francisco, interest bonds...	400,000 00
Donated by the city and county of Sacramento, interest bond	300,000 00
Bonds by the United States Government	27,389,120 00
First-mortgage bonds of the Central Pacific Railroad Company.....	$27,389,120 00
Second-mortgage bonds of said Central Pacific Railroad Company, legalized by law	15,601,741 83
Second-mortgage bonds issued and sold as above	11,787,378 17
Total	156,825,360 00

And whereas the directors of said Central Pacific Railroad Company made contracts with certain of their own members to construct said road, known as the "Contract and Finance Company," for consideration in lands, money, and bonds, far in excess of the actual cost of construction; and whereas said Central Pacific Railroad is, and has been, completed and in running order for—in part and in whole—over six years last past, and the profits accruing from the same, amounting to over $30,000,000 per annum, have been kept and appropriated to their own use, in violation of their duties, and in fraud of the United States Government; and whereas said directors of the said Central Pacific Railroad Company issued to themselves, and for their personal profit and benefit, the second-mortgage bonds of said Central Pacific Railroad Company to the amount of $27,387,120, payable in United States gold coin, with interest at 10 per cent. per annum, and have with said profits accruing to the Central Pacific Railroad Company, from the sales of United States bonds, lands, and other subsidies as aforesaid mentioned, and the issue to themselves of the bonds aforesaid, bought in order to defraud the Government of the United States out of the interest now due from said Central Pacific Railroad Company, other railroads in the State of California, and expended in doing the same all of the accruing profits of said Central Pacific Railroad for the benefit of the directors, failing and fraudulently refusing to pay the Government of the United States the interest legally due on said second-mortgage bonds: Therefore,

Be it resolved, That a select committee of seven members of this House be appointed by the Speaker, and such committee be, and is hereby, instructed to inquire whether or not any person connected with the organization or association commonly known as the "Contract and Finance Company" of the Central Pacific Railroad Company now holds any of the bonds, lands, or other subsidies granted said company, for the payment of which, or the interest thereon, the United States is in any way liable; and whether or not such holders, if any, or their assignees, of such bonds, lands, or other subsidies, are holders in good faith, and for a valuable consideration, or procured the same illegally or by fraud; and whether or not the United States may properly refuse to pay interest thereon, or the principal thereof, when the same shall become due; and whether or not any relinquishment of the first-mortgage lien that may have heretofore been made by the United States, with reference to the bonds of said Central Pacific Railroad Company, or any other branch roads connected therewith, may be set aside; and to inquire into the character and purpose of such organization, and fully of all the transactions of said Central Pacific Railroad Company, and of all transactions had and contracted by and between the directors of the Central Pacific Railroad Company and Charles Crocker & Co.; and of all transactions and contracts made by said directors with the "Contract and Finance Company" for the furnishing of material of every kind and character whatsoever, and the construction of the Central Pacific Railroad and other branch roads connected therewith, and of all contracts made by said directors of the Central Pacific Railroad Company with Wells, Fargo & Co., or any other corporation or corporations, individual or individuals, for material furnished, or for the construction of said Central Pacific Railroad, or other railroads constructed or purchased by said directors, and what officers of the United States, or members of Congress, if any, have at any time been connected therewith; and to report the facts to this House, together with such bill as may be necessary to protect the interest of the United States Government and the people, on account of any of the bonds, lands, and subsidies of the class hereinbefore referred to, and against the combinations to defraud the Government and the people; and said committee is hereby authorized to send for persons and papers, and to report at any time.

In preparing the resolutions I have just read I was governed by a statement of facts as sworn to by the Hon. Samuel Brannan, in a suit which he instituted against the directors and stockholders of the Central Pacific Railroad, a copy of which is now in the hands of the Committee on the Pacific Railroad; also the affidavits of Hon. James R. Rogers, of Placer County, California, and the concurrent resolutions of the Legislature of my State. Within the last few weeks I have also received a letter from a gentleman who formerly occupied a prominent subordinate position in connection with the Central Pacific, and who is thoroughly acquainted with the manner of constructing that road.

It has been contended by the managers of the Contract Finance Company that in no case were sub-contracts made, yet this gentleman offers to prove before an investigating committee the fact that sub-contracts were made, and to show the difference between the amount paid these sub-contractors and the amount charged by the gentleman who directed the affairs of the Contract Finance Company, and I have no doubt, if an investigation was ordered, the Central Pacific Railroad would far outvie in rascality the Credit Mobilier investigation, which I have several times referred to in the course of my remarks.

In asking for this investigation, I have also been sustained by nine-tenths of the leading newspapers upon the Pacific coast. I propose to-night to give a fair and impartial review of the affairs of the Central Pacific Railroad Company and its *protégé* known as the Contract Finance Company. I have therefore carefully compiled from the reports of various railroad companies in the United States a statement showing the cost of construction, stock, and equipment, including the building of depots and other actual expenses, and ask that the members of this House may carefully compare the same with the reported cost of constructing the Central Pacific Railroad.

For instance, roads in Massachusetts cost as follows:

Athol and Enfield Railroad $27,600 per mile, and passes over a very uneven country; Boston and Albany Railroad $48,500 per mile, (work heavy and passes over a very uneven country;) Boston, Barrere and Garden Railroad $23,380.35 per mile. (See American Railroad Manual, pages 25, 26, and Poor's Railroad Manual.)

Connecticut.—Sanbury and Norwalk Railroad $37,000 per mile; New Haven, New London and Stonington Railroad $24,000 per mile; Shepang Valley Railroad $32,150 per mile; New York, Providence and Boston Railroad $49,000 per mile. (See American Railroad Manual, pages 72, 76, 78, 79)

Vermont.—Connecticut and Pasumpsic Railroad $28,127 per mile; and passes through a mountainous country. (*Ibidem*, page 85.)

New York.—Albany and Susquehanna Railroad $52,623 per mile, and passes through a very rough country, as shown by engineer's report. Carthage, Watertown and Sacket's Harbor Railroad $31,174.72 per mile. The Erie Railroad cost $59,460 per mile. This includes the expense of erecting heavy iron and stone bridges, and other improvements, second to no other road in the country. The Ithaca and Athens Railroad cost $34,435 per mile; Long Island Railroad cost $28,341.20 per mile; New York and Harlem Railroad cost $60,373 per mile, a considerable part of which is double track. New York and Oswego Midland Railroad cost $40,000 per mile. This includes a very large outlay of money for valuable property and improvements. New York, Kingston and Syracuse Railroad cost $43,278.95 per mile. New York Central and Hudson River Railroad cost $44,845 per mile. This cost per mile includes an outlay of $3,853,045 for real estate and valuable improvements in the cities of Albany and Buffalo. The Rensselaer and Saratoga Railroad cost $41,378 per mile, a great part of which is double track; Utica and Black River Railroad cost $28,266 per mile. (See American Railroad Manual, pages 90, 98, 105, 121, 123, 128, 130, 133, 135, and 145.)

Pennsylvania.—Alleghany Valley Railroad cost $27,436 per mile. (*Ibidem*, page 189.)

Maryland.—Baltimore and Potomac Railroad cost $53,075 per mile, including double tracks. (*Ibidem*, page 281.)

South Carolina.—Cheraw and Darlington Railroad cost $17,000 per mile. (*Ibidem*, page 325.)

Georgia.—Georgia and Banking Railroad cost $18,000 per mile; Atlantic and Gulf Railroad cost $23,425 per mile. (*Ibidem*, pages 334, 338.)

Alabama.—Nashville and Decatur Railroad cost $32,212 per mile. (*Ibidem*, page 355.)

Texas.—Houston and Texas Central Railroad cost $30,000 per mile. (*Ibidem*, page 373.)

Indiana.—Terre Haute and Indianapolis Railroad cost $35,091.40 per mile. (*Ibidem*, page 457.)

Illinois.—Chicago and Alton Railroad cost $46,640 per mile. This includes immense improvements, costly bridges, &c. Illinois Central Railroad cost $48,055.26 per mile. Springfield and Illinois Southeastern Railroad cost $35,857 per mile. Western Union Railroad cost $38,459.85 per mile. This includes sidings and improvements. (*Ibidem*, pages 463, 478, 494, 496.)

Missouri.—Rockford, Rock Island and Saint Louis Railroad $52,380 per mile; Kansas City, Saint Joseph and Council Bluffs Railroad cost $34,311 per mile; Saint Louis and Saint Joseph Railroad cost $35,000 per mile. (*Ibidem*, pages 505, 511.)

Kansas.—Kansas Central Railroad (narrow gauge) cost $14,820 per mile; Kansas Pacific, $52,278 per mile; Lawrence and Southwestern, $35,750 per mile. (*Ibidem*, pages 514–516.)

Iowa.—Burlington and Missouri Railroad cost $45,780 per mile. (*Ibidem*, page 521.)

Colorado.—Colorado Central Railroad $40,000 per mile. (*Ibidem*, page 542.)

The Baltimore and Ohio Railroad Company, with its immense bridges, tunnels, &c.; with the grades (the heaviest of any road in the United States) averaging about 40 feet to the mile for nearly 200 miles and 116 feet to the mile for 17 miles, its curves not less than from 400 to 1,000 feet radius, and its tunnels 12,804 feet, averaged not quite $40,000 to the mile, as shown by the engineer's reports. (American Railroad Manual, page 285.) A comparison of the above reports will show that the items enumerated include the cost of stone and timber for building the roads, the purchase of right of way, of depot grounds, side-tracks, and everything necessary to stock and equip these roads, all of which were granted to the Central Pacific and other Pacific Railroad Companies free of charge.

Having thus briefly shown the cost of constructing some of the largest and most important railroads in the United States, as shown by the reports of the officers and engineers of said roads, I shall now endeavor to show the cost of building the Central Pacific, and the enormous subsidies received from the general and State governments,

and leave for the consideration of this Congress whether or not there is a necessity for an investigation of the gigantic frauds committed by the directors of the Contract Finance Company of the Central Pacific Railroad, whereby the Government and people and honest stockholders have been defrauded of millions of dollars, which have been received and earned by the said company and divided among its directors and a favored few.

THE COST OF THE ROAD.

To ascertain the cost of the Pacific roads, and especially the Central Pacific, let us examine the topography of the country and the grades over which the roads pass, as shown by the engineer's reports. From Omaha to Cheyenne, on the Union Pacific, the grade is 5,051 feet in 517 miles, or 10 feet to the mile. Omaha is 968 feet above the sea; Cheyenne, 6,019 feet. From Cheyenne to the summit of the Rocky Mountains the ascent is 2,223 feet in about 32 miles. The elevation of the summit is 6,242 feet above sea-level. After the summit is passed the road traverses about 400 miles on an elevated table land, to the Wasatch range of mountains. The elevation of this range at the point crossed is 7,550 feet above the sea and 3,550 above Salt Lake, which has an elevation of 4,200 feet above the sea.

The highest point between Salt Lake and the sink of the Humboldt River is 6,200 feet. From Salt Lake to the base of the Sierra Nevada Mountains is 420 miles, 300 of which is along the valley of the Humboldt River. The Central Pacific road crosses the summit of the Sierra Nevada 7,042 feet above tide-water. The heaviest grade is 116 feet to the mile, for 3½ miles, while the heaviest grade on the Baltimore and Ohio Road is 116 feet for 17 miles. By the act of July 1, 1862, closing paragraph of section 12, it is expressly enacted that "the grades and curves (of the Pacific roads) shall not exceed the maximum grades and curves of the Baltimore and Ohio Railroad. The eastern base of the Sierra Nevada is 3,932 feet above the sea.

The engineer further adds that in crossing the Sierra Nevada "a route was found open which the ascent has been nearly uniformly distributed." For instance, a part of the road from Truckee averages about 30 feet to the mile. (See Poor's Railroad Manual.)

The report further states that the elevation of this vast plain from which the Rocky Mountains rise, although so great, yet these mountains when they are reached present no obstacles more formidable than those offered by the Alleghany range to several lines of railroads which cross them. On the Baltimore and Ohio Railroad the mountains are crossed at an elevation of about 2,600 feet above the sea and with long grades of 116 feet to the mile. The line of the railroad up the eastern slope of the Rocky Mountains is not so difficult as those upon which several great works have been constructed in the Eastern States. (See engineer's report, Poor's Railroad Manual.)

Again the report states "that in crossing the Sierra Nevadas at an elevation of 7,042 feet in a distance of 105 miles, the company followed the ridges or divides." Upon these a *favorable line was found involving no grade of over* 116 *feet to the mile, and this for only the short distance of* 3½ *miles.* The elevation on the California road (meaning the Central Pacific Railroad) is surmounted by a line of nearly uniform grade, averaging from 75 to 105 feet to the mile. The route for the eastern portion of the line is up the valley of the Platte, which has a course nearly due east from the base of the mountains. Till these are reached this valley presents probably the finest line ever adopted for such a work for an equal distance. It is not only straight, but its slope is very nearly uniform toward the Missouri, at a rate of about 10 feet to the mile. The soil on the greater part of the line forms an admirable road-bed. The river, after leaving the mountains, has very few affluents, the only constructed bridges for the distance being one over the Loup Fork and the North Platte. (See engineer's report in reference to road-bed.)

The base of the mountains is assumed to be at Cheyenne, 517 miles from the Missouri River. This park is elevated 6,032 feet above the sea, and 5,095 feet above Omaha. From Cheyenne to the summit of the mountains, which is elevated 8,242 feet above the sea, the distance is 32 miles. The grades for reaching the summit do not exceed 80 feet to the mile.

After crossing the eastern crest of the mountains the line traverses an elevated table land for about 400 miles to the western crest of the mountains, which forms the eastern rim of the Salt Lake Basin, and which has an elevation of 7,550 feet above the sea. Upon this elevated table is a succession of extensive plains, which present great facilities for the construction of the road.

The whole line is a favorable one when its great length is considered. More than one-half of it is practically level, while the mountain ranges are surmounted by grades not in any case exceeding those now worked upon some of our most successful roads. (See engineer's report, Poor's Railroad Manual, and American Railroad Manual.)

From the above statements and extracts it will be seen at a glance that the grades upon the Pacific roads are not so great as upon many in other sections of the country; consequently there could not have been so much labor involved in their construction, nor could they have cost so much as roads in the Eastern States. The estimated average cost is $44,000 per mile in the United States for thoroughly constructing and equipping railroads, (see Poor's Railroad Manual, 1869–'70, page 28, and 1870–'71, page 42,) while the directors of the Central Pacific road claim that it cost for the construction of their road from one hundred and eleven to one hundred and thirteen thousand dollars per mile.

That such was not the case I will now proceed to prove from facts in my possession.

In the first place, permit me to call your attention for a few moments to the cost of construction of the Union Pacific Railroad, under the management of the company known as the Credit Mobilier.

The Credit Mobilier Company report the cost of construction at $68,058 per mile; 186 miles at $90,000 per mile. Total, 1,100 miles. Total cost, $78,945,012.

Cash resources, United States bonds	$29,328,000
First-mortgage bonds	29,328,090
Capital stock paid on work done	8,500,000
Land grant, 1,408,000 acres, at $1.50	21,120,000
Total	88,276,000

It will be seen from the above statement that the resources, consisting of subsidies, land grants, &c., from the national Government were $9,330,988 more than sufficient to pay the cost of construction, as shown by their own statement.

But now for the facts, as shown by the evidence before the Union Pacific Railroad Committee, found in the Congressional Globe, volume 94, pages 110, 111:

Your committee present the following summary of the cost of this road to the railroad company and to the contractors, as appears by the books:

COST TO RAILROAD COMPANY.

Hoxie contract		$12,974,416 24
Ames contract		57,140,102 94
Davis contract		23,431,768 10
		93,546,287 28

COST TO CONTRACTORS.

Hoxie contract	$7,806,183 33	
Ames contract	27,285,141 99	
Davis contract	15,629,633 62	
		50,720,958 94
Total		42,825,328 34
To this should be added amount paid Credit Mobilier on account of 58 miles		1,104,000 00
Total profit on construction		43,925,328 34

It appears, then, speaking in round numbers, that the actual cost of the road was $50,000,000, which cost was wholly reimbursed from the proceeds of the Government bonds and first-mortgage bonds; and that from the stock, the income bonds, and land grant bonds the builders received in cash value at least $23,000,000 as profit, being a percentage of about 48 per cent. on the entire cost.

It thus appears from the evidence that the Credit Mobilier Company of the Union Pacific defrauded the Government out of $43,925,328. What was this Credit Mobilier Company? Simply an organization composed of the directors of the Union Pacific Railroad Company, organized for the purpose of subletting contracts among themselves, and thereby defrauding the Government of millions of dollars. They transacted their business in the same room with the directors of the Union Pacific Company, and together formed one of the most stupendous combinations that has ever been formed to swindle a government and people.

How singular the coincidence. The Contract Finance Company of the Central Pacific meet in the same room with the Central Pacific Railroad directors; they sublet contracts among themselves, and together they form a combination before which the fraud and rascality of the Credit Mobilier sink into insignificance. In other words, the men composing the Contract Finance Company and the directors of the Central Pacific Railroad Company are one and the same persons. This has been admitted in the evidence of Mr. Huntington, the vice-president of the road, in his examination before the special committee of the Forty-second Congress.

Mr. Brannan, one of the stockholders of the Central Pacific Railroad Company, and a man of unimpeachable integrity, a sterling citizen, and one who has done much to develop the industries of California, testifies as follows:

The plaintiff is informed and believes, and therefore avers, upon and according to his information and belief, that the first 7.18 miles of said railroad and telegraph line, from Sacramento eastwardly, was actually constructed for little less than $11,500 per mile. That the actual cost of the next succeeding 150 miles, eastwardly, was less than $42,000 per mile, and no greater sum was expended in the construction thereof. That the actual cost of the construction of the rest of said road and telegraph line, to wit, for a distance of 620.32 miles, was less than $21,000 per mile, which said cost for each distance included depots, switches, turn-tables, side-tracks, water-tanks and water-stations, platforms, warehouses, repair-shops, machine-shops, and engine-houses, and all other equipments and furniture of said road.

Mr. Brannan makes this statement under oath, and after a careful and thorough investigation of the entire subject. He further swears so far as he was able, the books being concealed from him—

That instead of undertaking, by its own officers and agents, the construction of its railroad and telegraph line and the furnishing and equipping thereof, or making a reasonable contract with disinterested persons therefor, or letting out the work and the furnishing of materials for the construction, furnishing, and equipping thereof to the lowest bidder, and instead of endeavoring to construct, furnish, and equip the same in the most economical manner, the said Leland Stanford, Huntington, Hopkins, Charles and E. B. Crocker, and their confederates, then composing a majority of the directors of the said Central Pacific, combining and confederating together in order to defraud the said Central Pacific and the plaintiff and other stockholders thereof, and to secure to themselves, jointly and severally, personally great profits, advantages, and gains, entered into an arrangement between themselves, under the name or C. Crocker & Co., and under that name, from the

commencement of the construction of its railway, at the city of Sacramento, until about the month of November, 1867, contracted with said Central Pacific to furnish the materials for and to construct, furnish, and equip so much of said railroad and telegraph line as was constructed, furnished, and equipped, or partly constructed, furnished, and equipped prior to the 1st day of November, 1867.

That such contract and contracts were caused to be made in the name of said Central Pacific, by the votes and directions of said Leland Stanford, Huntington, Hopkins, Charles and E. B. Crocker, and their confederates, and who composed a majority of the board of directors of said Central Pacific, with said C. Crocker & Co., a copartnership of which the said last-named defendants were members, for their joint and individual profit and gain, and the prices and rates at which the same were let were exorbitant and excessive, to wit, at the rate, as plaintiff is informed and believes, of 200 per cent. over and above the actual and reasonable cost and expense of the work done, and the materials, furniture, and equipments furnished, in the name of said C. Crocker & Co., whereby the said last-named defendants did receive from said Central Pacific, and did appropriate to their own use, and did vote to themselves, under the pretense of being directors of said Central Pacific, large sums of money, bonds, and assets of said Central Pacific, to wit, as near as plaintiff can estimate the same, $7,000,000 in value, over and above the actual cost of the work done, and the materials, furniture, and equipments furnished in the name of or under the direction of said C. Crocker & Co.

That afterward, to wit, on or about the 18th day of November, 1867, the said defendants, Huntington, Hopkins, Leland Stanford, C. and E. B. Crocker, and divers others, their associates and confederates, to plaintiff unknown, combining and confederating together to cheat and defraud plaintiff and the other stockholders of the Central Pacific, and the said Central Pacific, and fraudulently to acquire and to appropriate to themselves without consideration or a just equivalent large profits and gains, and large amounts of the assets and property of the said Central Pacific, organized themselves and some of their servants and employés to plaintiff unknown, under the laws of the State of California, into a corporation styled the "Contract and Finance Company," for the purpose of taking contracts for the construction of subdivisions of the railroad and telegraph line of said Central Pacific, and the appurtenances necessarily connected therewith, and the equipping and furnishing the same.

That from and after the organization of said Contract and Finance Company, all the contracts made and entered into in the name of the said Central Pacific for materials to be furnished for and work to be done in the construction, furnishing, and equipment of said railroad and telegraph line, were by said Leland Stanford, Hopkins, Huntington, C. and E. B. Crocker, and their confederates, composing a majority of the directors of said Central Pacific, voted to be let, and in fact were let, and entered into by said Central Pacific of the one part, and the said "Contract and Finance Company" of the other part, without advertising to let the same to the lowest bidders or bidder, and without in any manner inviting competition therefor.

That under the fraudulent and illegal pretense of paying for said materials, work, equipment, and furniture, nominally contracted to be furnished and done by said "Contract and Finance Company," but really and in fact by said last-mentioned directors and their confederates, for their own benefit, the said last-mentioned directors and their confederates from time to time voted to pay, deliver, and make over, and did pay, deliver, and make over, in the name of said Central Pacific, to said "Contract and Finance Company" and its confederates large sums of money and large amounts of bonds, lands, and other valuable assets of said Central Pacific of great value, to wit, of the value, as plaintiff is informed and believes, of $225,855,618.17.

That said last-mentioned moneys, bonds, subsidies, lands, and other valuable assets so made over, transferred, and delivered to said "Contract and Finance Company," were in value greatly in excess, to wit, to the amount of $206,632,661.50½, of the actual cost of and of a fair price for all materials, furniture, and equipments furnished by and work done by said "Contract and Finance Company," or by its subcontractors or employés, in the construction of said railroad and telegraph line, and the appurtenances thereof, and the said last-mentioned sum, in excess of the sum in which the same could have been let out for and contracted to be done and furnished for by responsible persons and firms who did not intend to cheat and defraud the said Central Pacific, the plaintiff, and the other stockholders of the said Central Pacific.

The said defendants, Leland Stanford, Huntington, Hopkins, E. B. and C. Crocker, heretofore, to wit, on or about the 20th day of July, 1869, under the name of said "Contract and Finance Company," divided among themselves the said $206,632,661.50½ in value of the assets, subsidies, and property of said Central Pacific, so as aforesaid delivered to said "Contract and Finance Company," but in what proportions the plaintiff is ignorant, but is informed and believes, and therefore avers, upon and according to his information and belief, that the said sum was so divided in the proportions of one-fifth to each of the last-named defendants.

And the plaintiff avers, on and according to his information and belief, that said "Contract and Finance Company" did sublet the greater portion of the work to be done, and which was done, and the materials to be furnished, and which were furnished in the construction of the said telegraph and railroad line under its contracts with said Central Pacific at prices greatly below, to wit, more than 1,000 per cent. below the prices which said Central Pacific nominally undertook to pay to said "Contract and Finance Company" for doing the same work, and furnishing the same materials.

It will be seen from the above statement that Mr. Brannan swears that the cost of constructing the Central Pacific Railroad from Sacramento to Ogden, a distance of 777 miles, was $20,000,000, or about $25,700 per mile; *and in further evidence of Mr. Brannan's statement, I need only add that the directors of the company settled with him, and never denied his allegations.*

This in itself is proof sufficient that the statements were in the main correct.

I now ask if, as Mr. Brannan swears, the road cost but $25,700 per mile, what would be the difference between the cost as sworn to by the above-named gentleman and $113,000 per mile as asserted by the directors of the Contract Finance Company? Simply $87,300 per mile. But allowing the road cost $50,000 per mile, which it did not, there is still a gain of $63,000 per mile to be pocketed by the directors of this Contract Finance Company.

It is further asserted by these same directors that it cost $90,000 per mile to construct railroads in California, that is, the roads that are part of the Central Pacific, and for which they received subsidies, as alleged by Mr. Brannan; and as will appear by reference to statutes, namely, the Sacramento Valley, the road to Redding, the San Joaquin Valley, the Copperopolis, Santa Clara, Western Union, and branch roads connected therewith, all of which were constructed with the proceeds and dividends acquired by defrauding the Government and stockholders, as alleged by Mr. Brannan.

I deny *in toto* the statement that it cost $90,000 per mile to build railroads in my State, and if a thorough investigation is made, it will show that these roads were constructed as cheaply, if not cheaper than any other roads in the United States.

Aside from the fact that for miles they traverse through valleys and broad level plains, they were built mainly with cooly labor, their ties and wood-work cut from the mountain-sides on the line of the road, and almost everything necessary for their construction within easy reach. The fact, therefore, is as clear as the sun at noonday that this road and its branches could not have cost on an average $111,000 or $113,000 per mile, and if such was the case, I simply ask how can its directors account for the fact that at the present time they assess its value as only worth from five to seven thousand dollars per mile. (See Report State Board of Equalization, California, pages 21, 99, 100, 101.) What a shrinkage in value from $113,000 to $7,000 per mile.

I need only say in further evidence of the fraudulent transactions of this company that all efforts to examine books and papers have been frustrated and disallowed by its directors, that when the Placer Company, which had taken $250,000 of its stock, demanded an investigation through its board of supervisors, and San Francisco, which had taken some $600,000 of its stock, demanded an investigation through its mayor, they were not only met with a positive refusal on the part of the directors to allow such an investigation, *but inducements of all kinds were held out to the parties who endeavored to make the investigation to desist from it*, and the investigators were asked to sign a paper *carefully prepared by the directors of the Central Pacific*, to the *effect that such an investigation had been made and resulted in the complete exoneration of the said directors.* In one instance a direct effort was made to bribe one of the board of supervisors, as will be shown by his affidavit which I now read:

On the 14th day of September, A. D. 1864, and immediately after the attempt to examine the books of the Central Pacific Railroad Company of California, Charles Crocker, the superintendent of the company, drove over to the Orleans Hotel in Sacramento City and asked me to get in and take a ride. I objected, but finally got into the buggy with him. Crocker's first words were, "Well, what do you think of the examination?" I replied, "I think the examination a farce, and the whole affair a swindle." His answer was, "Why, you have not seen anything have you?" I said, "No; but your report says, We have carefully examined the books of the company, and you know that we have not." He said, "Well, never mind that; you sign the report and we will make a rich man of you." I answered, "Mr. Crocker, that report is a lie, and I cannot do it; but if you will throw open your books, and if they will justify it, I will be the first one to put my name to a favorable report." "Never mind," said he, "now you know the value of the Clipper Gap Station, I will see that you have that, and if you are not satisfied with your position on the road I will put you in any one you want, and you know that I can do it." I said, "The report is not true, and I cannot do it." He then said, "Rogers, you do not know what you are bringing on you. You are commencing the fiercest war you can imagine. It will be a powerful corporation against an individual, and while your report will hurt us we will crush you." I answered, "Crush away." He then said, "Rogers, this is an institution but just commenced. There is a great future. Every man of us can make a fortune, and we can let you know of many things that will put money in your pocket. I will tell you of one. We intend to depreciate the stock, and we will make the counties sick of their investment. Then we can get a law passed allowing the counties to sell their stock, and we will buy it in and you shall be one of us." And right here let me remark that such laws were passed through the Legislature, the stock was depreciated and bought by the railroad managers from the counties who were anxious to dispose of it, fearing a still further depreciation, and the county of Sacramento for one lost largely, only receiving about seventy cents on the dollar. I said, "Crocker, I will not do it. Drive me back to the Orleans."

He then said, "Rogers, if you speak of these things I will shoot you." I told him that I rather thought not.

JAMES R. ROGERS.

STATE OF CALIFORNIA, *County of Placer, ss:*

Subscribed and sworn to before me this 14th day of September, A. D. 1864.

[SEAL.] WALTER B. LYON,
Recorder and Ex-officio Clerk of the Board of Supervisors of Placer County.

On the evening of the 14th day of September, A. D. 1864, D. W. Madden came to me and said, "Rogers, you know my ranch." I said "No." He answered, "Well, I have as fine a ranch as any one; as good as Dickerson's. Now, if you will sign that report," meaning the majority report, "I will give you a deed of the property." I said, "Wash., never; I cannot do it. The report got up in the railroad office is a damned lie, and you know that they are robbing their country and I will not be a party to it."

JAMES R. ROGERS.

STATE OF CALIFORNIA, *County of Placer, ss:*

Subscribed and sworn to before me this 14th day of September, A. D. 1864.

WALTER B. LYON,
Recorder and Ex-officio Clerk of the Board of Supervisors, Placer County.

In order to show more completely the immense subsidies received by this company, I refer the members of this House to the United States Statutes at Large, and statutes of California and Nevada, for the several land grants, bonds, money, right of way, and other donations granted by the United States, the States of California and Nevada, and the several counties of those States as mentioned therein.

I have not thoroughly examined the statutes of Nevada, but I find that in 1869 the Legislature authorized the issue by the several counties of nearly $2,000,000 in bonds and other subsidies, the most of which, no doubt, inured to the benefit of the Central Pacific.

I also refer to the concurrent resolutions of the California Legislature, alleging fraud in the management of the affairs of the Contract Finance Company and demanding an investigation, which I will now read:

Assembly concurrent resolution relative to the Central Pacific, the Western Pacific, and the California and Oregon Railway Companies.

Whereas a resolution with a preamble has been introduced and is now pending in the Congress of the United States, in which preamble it is specifically charged that the Central Pacific, the Western Pacific, and the California and Oregon Rail-

way Companies have received donations and subsidies from the United States, and from the State of California and certain counties and municipalities within that State, and also from the State of Nevada and the Territory of Utah, amounting in the aggregate to the sum of $156,825,000, which donations and subsidies were granted to said railway companies for the sole purpose of aiding them in the construction, equipment, and maintenance of their railways, and that the directors of said railroad companies corruptly entered into contracts with themselves for the construction of said railways, under the name of Charles Crocker & Co. and the name of the Contract and Finance Company, whereby a large portion of said subsidies and donations has been unlawfully diverted from the legitimate object for which they were granted by said directors and fraudulently converted by them to their own individual use and emolument; and whereas said resolution provides for the appointment of a committee by Congress invested with ample powers to inquire into said alleged fraudulent contracts, and also to inquire into and report to Congress upon all matters and transactions touching the construction and management of said railways, and all the affairs and transactions of said Charles Crocker & Co. and the said Contract and Finance Company in connection therewith; and whereas it is the opinion of the Legislature of the State of California, now in session, that such investigation should be made: Therefore,

Be it resolved by the Assembly, (the senate concurring,) That our Representatives in Congress be requested and our Senators instructed to use all honorable efforts to secure at the earliest practicable moment the passage of said resolution by Congress, and that the governor be requested to transmit forthwith a copy of this resolution to each of our Representatives and Senators.

MORRIS M. ESTEE,
Speaker of the Assembly.
R. PACHERO,
President of the Senate.

I also desire to add further, in connection with this subject of subsidies, that the Government has voted to corporations 220,858,338 acres of the public domain, or 10,600,000 acres more than the area of the Eastern States, and 138,173,218 acres more than is comprised in the States of Ohio, Indiana, and Illinois. (See Land Office Report for 1873.) This land is selling from five to seven dollars per acre; and the Central Pacific and its branches have received 13,000,000 acres. Government valuation $32,500,000; railroad average sales at $4.50 per acre, $58,500,000. In addition to this the Government has loaned its credit to the Pacific Railroads to the extent of $64,623,512, and paid interest amounting to $22,386,691.62, and there is still a balance due of $646,235.12, making a total when the entire amount is paid of $87,656,438.74, of which the Central Pacific has received $34,583,156.87. The total mileage constructed under the authority and by aid of Congress has been 2,500 miles. Toward the construction of these roads the Government has issued its 6 per cent. currency bonds upon 300 miles at the rate of $48,000 per mile; upon 976 miles at the rate of $32,000 per mile, and upon 1,244 miles at the rate of $16,000 per mile. (See Poor's Railroad Manual, and acts of Congress.)

If the Government continues paying simple interest for thirty years on the principal outstanding, ($64,623,512,) it will have paid to these Pacific roads the sum of $116,322,321.60, amounting, principal and interest, to $180,945,833.60; while if it deals with these roads and corporations as business men do with one another, and which it should do, compounding the interest at 6 per cent. per annum, semi-annually, the enormous sum of $382,022,910.69 will have been paid from the public Treasury and the purses of the people.

I also submit for consideration the following statement of the net earnings of the Central Pacific Railroad Company, as shown by Poor's Railroad Manual for 1873:

1864	$46,871 91
1865	280,272 39
1866	664,206 96
1867	1,087,901 22
1868	$1,469,776 36
1869	2,591,497 00
1870	3,800,761 34
1871	5,171,192 95
1872	7,290,019 84
1873, as shown by railroad reports	8,281,649 00
Total	30,684,148 97

And yet out of these immense profits the directors have never declared a dividend to the stockholders, nor paid a cent of interest to the Government, but as sworn to by Mr. Brannan, and undenied by the directors of the company, have bought up other roads, and divided among themselves the surplus earnings.

I have also carefully compiled from Poor's Railroad Manual for 1874 a statement showing the comparative earnings of railroads per mile in different sections of the country, from which it will be seen that roads in the Pacific States earn more *per capita* than in any other section:

	Per mile.	Per capita.
New England States	$10,636 00	$13 53
Middle States	14,565 00	15 86
Western States	6,375 00	13 76
Southern States	4,350 00	4 31
Pacific States	10,161 00	17 00

I annex herewith a table prepared by the Secretary of the Treasury showing the bonds issued to and interest payable from the several Pacific Railroad Companies:

Bonds issued to the Pacific Railway Companies under authorizing acts of July 1, 1862, *and July* 2, 1864, *interest payable in lawful money.*

Name of railway.	Rate of interest.	When payable.	Interest payable.	Principal outstanding.	Interest accrued, not yet paid.	Interest paid by the United States.	Interest repaid by transportation of mails, &c.	Balance of interest paid by United States.
Central Pacific	6 per cent.	30 years from date..	January and July...	$25,885,120 00	$129,425 60	$8,698,036 87	$811,379 24	$7,886,657 63
Kansas Pacific	6 per cent.	30 years from date..	January and July...	6,303,000 00	31,515 00	2,536,623 09	1,234,632 03	1,301,991 06
Union Pacific	6 per cent.	30 years from date..	January and July...	27,236,512 00	136,182 56	9,433,038 57	2,711,892 44	6,721,146 13
Central Branch, Union Pacific	6 per cent.	30 years from date..	January and July...	1,600,000 00	8,000 00	637,808 26	25,643 27	612,164 99
Western Pacific	6 per cent.	30 years from date..	January and July...	1,970,560 00	9,852 80	545,029 74	9,367 00	535,662 74
Sioux City and Pacific	6 per cent.	30 years from date..	January and July...	1,628,320 00	8,141 60	536,155 09	7,141 23	529,013 86
Totals				64,623,512 00	323,117 56	22,386,691 62	4,800,055 21	17,586,636 41

The foregoing is a correct statement of the public debt, as appears from the books and Treasurer's returns in the Department at the close of business, January 31, 1874.

WILLIAM A. RICHARDSON,
Secretary of the Treasury.

It will be seen from this statement that the Central Pacific and Western Pacific (one and the same corporation) have received amounts as follows:

Central Pacific	$7,886,657 63
Western Pacific	535,662 64
Total	8,422,320 27

To sum up briefly, I find that the Central Pacific Railroad Company has received in bonds, land grants, and other subsidies, $156,825,360; add to this the net profits, $30,684,148.97, and interest paid by the United States, $8,422,320,27; making a total of $195,931,829.24; deduct from this the probable cost of the road, which does not exceed $45,000,000, and it leaves $150,931,829.24 to be divided among the Contract Finance Company or Credit Mobilier of the Central Pacific.

I now desire to call your attention to another statement. In the *State of California alone,* five years ago, *according to the statement of the directors,* the Central Pacific road, *independent of depots and other improvements,* was valued at $116,865,240; number of miles 1,052.84; cost per mile, $111,000. In 1873 the *assessed* value of their *entire* property in the State of California, as shown by the report of the State board of equalization, was only $12,289,008, making a difference in the value of their property between 1865 and 1873 of $104,576,232.

The question now arising is how is it possible for a road valued in 1865 at $116,000,000 to shrink in value $104,000,000 inside of eight years? If this state of affairs continues for eight years longer the road will be worth nothing, and the Government and stockholders will never receive a dollar.

I appeal to this House to consider this matter seriously, that one of your great Pacific railroads has declined in value $13,000,000 per year, and this statement is made in the face of the fact that its net earnings have increased from $46,871.91 per year in 1864 to $8,281,649 in 1873, as shown by the report of its directors. How can you reconcile the difference? By what magic power can the directors account for such a depreciation? Does this not show a damnable fraud? For what purpose is this value of but $12,000,000 placed upon a property in 1873 that was valued in 1865 at nearly ten times as much? I will not answer the question. The stockholders who for years have never received a dividend, the Government that has never received its interest, and the tax-payers of the entire country will answer. It needs no comment. On its face it bears the stamp of roguery, deception, and crime.

And here let me add that even with the low assessment of $12,000,000 placed upon their property in my State the managers of this company have refused year after year to pay the State taxes, and within the last year have commenced suit in the counties of Nevada, Placer, Sacramento, San Joaquin, Almeda, and Santa Clara against the tax-collectors, and have procured injunctions restraining the collection of the taxes assessed. (See report State board of equalization. 1873.)

I defy the directors of this company to deny the truth of these statements. I defy them to show that they have grown poor, or that their road to-day is worth less than it was eight years ago. I defy them to show any part of their road, excepting a small portion in the Sierra Nevada mountains, that will begin to compare in cost with the cost of roads in the Eastern States.

I have cited authorities and facts that are indisputable to show that the worst frauds ever perpetrated upon this American continent have been committed by the directors of this road and its Contract Finance Company; to show that these Pacific Railroad corporations are reeking with guilt and perjury; that facts have been misrepresented and reports made which are false in every particular; that when legislation is needed at the hands of Congress or of a State the expenses and value of the road are represented in one light, but when bonds are to be disposed of by capitalists in this country and in Europe they are represented in another; and under the most specious and plausible promises are disposed of at a high figure to the poor workingmen of Europe and America, who find, alas, too late that they have been gulled and defrauded of the savings, perhaps, of a lifetime.

As a further evidence that the moneys received by this company were misappropriated and divided among the directors of the Contract Finance Company, I assert as a notorious fact that in 1862, when this company was organized, its directors were comparatively poor men, and were not ranked even among the men of easy circumstances in the Golden State; yet within six short years after they became directors of the Central Pacific Railroad and Contract Finance Company they were known as millionaires. *Crocker sells out for* $14,000,000, and his brother, who by the way *was only acting as attorney for the company, disposes of his interest for* $4,000,000. *Stanford is reputed to be worth* $20,000,000, and so on through the list of directors. Each is a millionaire, while the Government and people have been defrauded.

How is it with the stockholders outside the ring? Well, I will name two of my own acquaintances: Colonel Lindsey, a farmer of Sacramento County, subscribed to the stock, and paid up every dollar in gold coin nearly twelve years since; kept his stock ten years, and by hard work succeeded in selling for seventy-five cents on the dollar, losing 25 per cent. and the use of his money for ten years. Mr. Egles, an honest old man, was induced to subscribe for stock, paid his gold coin, still holds his stock, and cannot even get seventy-five cents on the dollar or anything else, while *Government officials and members of the United States Congress receive* $2.25 *for each dollar subscribed.*

And yet the Central Pacific road cannot pay the interest on its bonds, can declare no dividend to its stockholders, and refuses to pay its taxes to the State government of California. It is poor and needy, and I trust before the end of this present Congress that a thorough investigation will leave it sick and sore of its guilt and purge it of its corruption. It cannot pay its interest. Yet Poor's Railroad Manual, 1868, page 50, says:

> The interest liabilities of the Central Pacific Railroad Company are even now (1868-'69) less than a third of the net earnings of the road pledged.

I will further add that Attorney-Generals Akerman and Williams have both decided that the interest on their bonds is due and payable semi-annually, and not at the maturity of the bonds, as contended by the managers of the Central Pacific.

I also desire to call your attention to the closing paragraph of section 6 of the act of July 2, 1862, which expressly states that "after said road was completed until said bonds and interest are paid, at least 5 per cent. of the net earnings of said road shall also be annually applied to the payment thereof."

This is an express provision of the law incorporating the Pacific road, yet for years it has been utterly disregarded. Is it not our duty as legislators to thoroughly investigate these Pacific roads and demand an enforcement of the law? The Government and people demand an investigation into the affairs of this company, and if such an investigation is made, a fraud will be unearthed so deep and damnable, that the Credit Mobilier will be forgotten; a fraud that will sink into eternal infamy the men who have organized and shared in it. An investigation can do no harm. If these Pacific Railroad Companies have dealt honestly by the Government and people, it will injure no man or bodies of men to compel a fair exhibit of the books and accounts; and if fraud has been committed, it is due to honest government, due to the country, and to the honest, toiling tax-payers of the land that the fraud should be unearthed, its perpetrators held up to the scorn of the nation, and compelled to disgorge and surrender to the Government and the people their ill-gotten gains. Every business man renders an account and prepares a balance-sheet at least once a year; but how is it with the giant and soulless corporations that are feasting upon the substance and hard earnings of the laboring poor of the country? Have they submitted their annual balance-sheet? No, sir! Nearly twelve years have passed, and yet no account, no statement to the Government that enriched them, and none the people from whom they have received and exacted so much.

Can we as representatives of a free people pass this thing coolly by? Shall we return to our constituents with the blush of shame on our cheek, knowing that we have countenanced fraud and failed to do our duty? No, gentlemen; I say we must compel an accounting to the people by these corporations; the people demand it and will have it, and the man who dares to oppose a thorough investigation, a full enforcement of the laws, and a thorough accountability of the operations of these gigantic corporations, will never again occupy a seat in the Congress of the nation by the suffrages of his constituency, and God forbid that he ever should. I demand this investigation in the name and behalf of my Government; I demand it in behalf of the tax-paying people of our common country, who have contributed nearly nine-tenths of the cost of these roads; I demand it in behalf of over one million grangers and Patrons of Husbandry; I demand it in behalf of the working men and women of our land; I demand it in the name of justice and equity; I demand it as a right which every citizen of this Government possesses to know what disposition is made of the hard earnings of the people, who are suffering with taxation and oppressed with burdens; as a laboring man and tax-payer I demand it; and as one reared to toil I demand in behalf of my toiling kindred and brethren the adoption of the measures now under consideration.

The boast of parties is that all men are created with equal rights and privileges. If such be the case, equal rights and common justice demand at our hands as the representatives of the people that we be taxed according to our possessions; that the law of the land be applied to corporations as well as individuals, and that they be made to pay the interest due the Government; that labor be rewarded; that honest toil be fully recompensed; that the Government be managed in the interest of the people, and not in the interest of land rings, railroad rings, bloated corporations, and monopolies. I appeal to the members of this House to lay aside all party prejudices, to rise above all partisan feelings, and to act in this matter for the best interests and welfare of our people.

In conclusion, I only have to say that the Credit Mobilier investigation was, as I before stated, originated by a simple resolution in the Forty-second Congress. No reference to a regular committee, or no argument before a committee was made by the mover of the resolution. It resulted in exposing a gigantic fraud, and when an investigation is made in accordance with the resolution which I have submitted, a fraud will have been uncovered before which the Credit Mobilier was but a pigmy or semblance; you will have done your duty as representatives of the people, and I shall have fulfilled my obligations to my Government, my constituency, and my conscience.

ABUSES IN THE PUBLIC PRINTING OFFICE.

Mr. STORM. Mr. Speaker, this Congress cannot, in safety to its own reputation, adjourn without taking some measures to remedy the abuses which exist in the Public Printing Office. We cannot close our eyes to the fact that abuses do exist there. The press of the country, irrespective of parties, has called our attention to it. If we but open our eyes and look around us we can see multiplied evidences of it. If we but open and look into the report of the Congressional Printer we see these abuses sticking out at the knees and elbows.

What I have to say upon this occasion shall be in arraignment of a system, not of an individual, and if what I may say of the Congressional Printer shall seem to be of a personal character, it is so because the system of legislation under which he acts makes it necessary. Learning that such abuses did exist, early in the session I introduced a resolution on the subject, and had it referred to the Committee on Printing, of which the gentleman from Iowa [Mr. DONNAN] is chairman. Before this committee the Congressional Printer, Mr. Clapp, was requested to appear; this he declined to do, on the grounds, as I have been informed, that he was an officer of the Senate, and was responsible to that body alone. Owing to this refusal to appear and testify before the House Committee on Printing, my resolution failed, and the committee reported a joint resolution, and have in pursuance of that resolution taken some testimony, and have just made report to this House. I have refrained from speaking upon this subject until that report was made. The day of adjournment not being far off, I feel it to be my duty to call the attention of the House to the subject now, so that it can, should it see fit, correct existing abuses by proper and necessary legislation.

The refusal of Mr. Clapp to appear before the House Committee on Printing, I will remark in passing, has had one good effect, namely, it has opened the eyes of Congress to the absurdity of making the Congressional Printer an officer of the Senate; and I hope that the amendment of my friend from New York [Mr. HALE] which was put in the legislative, executive, and judicial appropriation bill by an almost unanimous vote of the House will be adhered to by it. This House is powerless to protect itself against this abuse if the Senate committee is to control this whole subject, for it is clear that the chairman of that committee in the Senate either cannot or will not see anything wrong in the present Public Printer or in the system under which he is acting.

Abuses in public printing, so far as the experience of our national Government goes, seem to be inseparable from the very subject. This, too, is the experience of every State in the Union. So outrageous had these abuses become in my own State that the public printing there is regulated by a wise provision in our new constitution. It is a system of gross favoritism universally abused, not only in the purchase of paper and other material, but in the printing and binding.

No one who has paid the least attention to the subject will say that the Government can do its printing as cheap as individuals can do it. Indeed this is true of almost every enterprise. In the man-

agement of a Government establishment under a superintendent, working for a fixed salary, you have the absence of that keen interest, that watchfulness and care, which characterize the individual whose whole fortune is embarked perhaps in the undertaking. The individual will take care to buy his material where he can buy the cheapest; see that the weight is full and strong; that his employés make full time, and that waste and extravagance are avoided. No Congressman can compel him to employ some dead-beat of a "jour," whom no well-managed establishment would receive for a moment, or some politician who must be provided for whether there is work for him to do or not.

The history of our present printing office is the repeated experience of all the other Bureaus of the Government, namely, that of rapid growth. And it is only by constant watching and perpetual resistance that this office has not outgrown all the ideas of its founders. Every year we witness a contest over the Bureaus of Education and Agriculture. They seem determined to expand beyond what was ever contemplated, and Congress has all it can do to resist these expansions.

This establishment, small and humble at first, has grown to be the largest in the country. A building 675 feet long—larger by 73 feet than this Capitol—four stories high, filled with the best presses in the world, employing over 1,500 persons, purchasing 32½ tons of types last year, 17½ of which were purchased for the CONGRESSIONAL RECORD alone, and requiring an appropriation larger than the entire annual civil expenses of the Government during Jackson's administration, and this amount is constantly on the increase. And what is a remarkable fact, the Congressional Printer is constantly soliciting more printing from Congress, although he is an officer with a fixed annual salary, not in any way depending upon the amount of printing done. Yet Mr. Clapp goes about these Halls like some Oliver Twist "asking for more." This wears an ugly look, in connection with the fact stated in the newspapers in this city that Mr. Clapp has a son in a Baltimore house where most of the paper used in public printing is purchased.

Mr. Clapp may be innocent, but he subjects himself to a fearful suspicion. But two or three years ago an investigation into one of our leading religious book concerns in New York City developed a similar relation between one of the officers of that concern and the firm furnishing the paper.

Mr. Speaker, in connection with this subject of public printing we must not forget the exact bearing which the abolition of the franking privilege has upon it. I voted for its abolition and against every attempt to restore it directly or indirectly, except so far as country newspapers are concerned. I also believe that it will never be restored, and that the saving to the tax-payers was not so much by what it may increase the revenues of the Post-Office Department as by what it diminishes the amount of public printing. That the abolition of the franking privilege will greatly decrease the public printing all must admit. Since its complete abolition in March, 1873, not one public document for general distribution has been ordered to be printed.

The reason is obvious; the postage on these books would be nearly as great as the pay of a member. Besides, three-fourths of these documents are not worth the postage; no constituent would pay it to have one. It is notorious that but once in a great while there is one worth printing. Take the abridged messages and documents, commerce and navigation reports, the reports of the heads of the various Departments, the report of the Commissioner of Education, and, with the exception of the last, no constituent would thank a member if he sent one of them to him "postage prepaid;" because he may wade through volume after volume in the hope that he may find some new thought, some idea worthy to be treasured up, but when he gets through he will find his search in vain. The messages and documents at best possess but an ephemeral interest. Those who feel enough interest in them to read them will do so as they appear in the newspapers at the time of their communication to Congress. But who a year after their transmission to Congress will take the pains to go through this mountain of chaff in order that he may perhaps find a grain of wheat? Not one in ten thousand.

Yet as long as these books passed through the mails free, Congressmen would frank them to their constituents, for it was about the easiest way to get rid of them. There are not ten members on this floor to-day who would vote to print any of these books, simply because they know they are not worth one-half the price of the postage, nor the tenth part of the cost of paper, printing, and binding. Just how much the public printing will be diminished it is hard now to say; but it certainly will reach 50 per cent.

This being so, Mr. Speaker, no more favorable opportunity will be presented for disposing of this elephant which we now find on our hands. It is a grave economical question, involving millions of dollars, whether we will modify existing legislation, or whether we will change the method of doing the public printing, and award it to the lowest responsible bidder. The latter method in my mind is the correct one, and every tax-payer in the country has a vital interest in the change, especially as it is becoming apparent that we must increase taxation to carry on the expenses of the Government. If this Congress adjourns without action being taking to correct this abuse, those who are more immediately responsible for the legislation done here will be called to a fearful account in the coming elections.

Let us now examine somewhat in detail the management of the Office of Public Printing. The act of Congress requires the Congressional Printer to report annually, "showing the *exact* condition of the printing, binding, and engraving, the amount of paper purchased for the same, and such further information as may be within his knowledge in regard to all matters connected therewith," &c. Notwithstanding this provision of law requiring *exact* information on the subject of public printing, I challenge any member on this floor to take up any of Mr. Clapp's annual reports and say if he has given anything like *exact* information. On the contrary, his reports are studiously and purposely inexact and uncertain; so much so that when Mr. Clapp gets before an investigating committee it is impossible for him or the committee to say what the public printing does cost.

Look at this report for the year ending September 30, 1873. This report is without a parallel. It is not like unto "anything that is in heaven above, or that is in the earth beneath, or that is in the waters under the earth," unless we except the cuttle-fish, which is said by naturalists to possess the power of rendering itself invisible by injecting into the water an inky fluid. It seems to be prepared on purpose to conceal the workings of the office and to mislead any one who does not give it a careful examination. I say it without fear of contradiction that there are not five statements in it that can be relied on.

As a specimen of book-keeping it is a model. The Congressional Printer has adopted the "double-entry" system, except occasionally when the treble entry was better adapted to the object in view. To my mind Mr. Clapp would have appeared to better advantage had he just frankly said, "I acknowledge I have not kept any correct account of material and labor, &c., but I managed in some way to use up $2,085,238, and I thought it would be just as well to apportion this sum to the several jobs I have done. It may be I have charged the Post-Office and other Departments too much, but sometimes I have charged Congress too little." This is in effect what he does now say, although in his report he professes to be giving things at their cost.

In the first place I assert that the Congressional Printer does not account for the sum of $49,317.30 which his own reports show he had on hand on the 30th day of September, 1873. This is such a serious charge that I ask the House to examine the reports and see if the following statement made by Mr. Church before the Committee on Printing be not correct:

Statement of balances of printing paper at Government Printing Office, from October 1, 1869, to September 30, 1873, as shown from Congressional Printer's official reports.

October 1, 1869, to September 30, 1870:		
On hand October 1, 1869, (report 1868, page 27)		$136,389 25
Bought during year, (report 1870, page 31)		418,974 21
Total on hand during year		555,363 46
Consumed:		
On Congress work, (report 1870, page 22)	$249,590 28	
On Department work, (report 1870, page 25)	207,884 17	
On unfinished work, (report 1870, page 39)	27,159 57	
Total	484,634 02	
Deduct unfinished work of previous year, (Report 1869, page 34)	26,787 49	
Actual consumption		457,846 53
Should be on hand September 30, 1870		97,516 93
Amount reported on hand, (report 1870, page 31)		108,955 35
Surplus		11,438 42
October 1, 1870, to September 30, 1871:		
On hand October 1, 1870		$97,516 93
Bought during the year, (report 1871, page 30)		483,108 50
Total on hand during year		580,625 43
Consumed:		
On Congress work, (report 1871, page 21)	$210,565 85	
On Department work, (report 1871, page 24)	198,549 78	
On unfinished work, (report 1871, page 37)	41,404 42	
Total	450,520 05	
Deduct unfinished work of previous year, (report 1870, page 39)	27,159 57	
Actual consumption		423,360 48
Should be on hand September 30, 1871		157,264 95
Amount reported on hand, (report 1871, page 30)		130,514 03
Deficiency		26,750 92
October 1, 1871, to September 30, 1872:		
On hand October 1, 1871		$157,264 95
Bought during year, (report 1872, page 34)		498,989 25
Total on hand during year		656,254 20
Consumed:		
On Congress work, (report 1872, page 25)	$316,951 97	
On Department work, (report 1872, page 27)	204,772 17	
On unfinished work, (report 1872, page 42)	47,153 20	
Total	568,877 34	
Deduct unfinished work of previous year, (report 1871, page 37)	41,404 42	
Actual consumption		527,472 92

Should be on hand September 30, 1872		$128,781 28
Amount reported on hand, (report 1872, page 34)		107,592 47
Deficiency		21,188 81
October 1, 1872, to September 30, 1873:		
On hand October 1, 1872		$128,781 28
Bought during year, (report 1873, page 35)		536,968 21
Total on hand during year		665,749 49
Consumed:		
On Congress work, (report 1873, page 26)	$279,972 27	
On Department work, (report 1873, page 28)	224,535 36	
On unfinished work, (report 1873, page 42)	9,677 76	
Total	514,185 39	
Deduct unfinished work of previous year, (report 1872, page 42)	47,153 20	
Actual consumption		467,032 19
Should be on hand September 30, 1873		198,717 30
Amount reported on hand, (report 1873, page 35)		149,400 03
Deficiency		49,317 27

From this statement it is seen that under Mr. Clapp's system of book-keeping nearly $50,000 have dropped out in the item of paper alone.

On page 13 of the report for 1873 he says he printed 10,000 copies, of 790 pages each, of the report of commerce and navigation, and charged for cost of work, paper, and binding the sum of $3,595.01. This job required 499 reams of paper, and the cost per ream, according to the report, would be $7.20. But this paper cost only $6.00 per ream; an overcharge of $1.20 per ream, or 20 per cent. above the actual cost, and amounting to about $600 on the whole job.

Again, on page 15 of the same report, he charges for printing 2,500 copies of the report of the Commissioner of Agriculture for 1872, consisting of 8 pages each, $32.83. This required about 1¼ reams of paper, charging per ream about $26; about three times what it actually cost the Public Printer.

On page 14 of the same report he claims that he published 1,650 copies, of 250 pages each, of the report of the board of public works of the District of Columbia; cost of paper reported at $242.08. This job required 26 reams, at $9 per ream; another overcharge of at least $1.80 per ream, or of 20 per cent.

So you may go on through the whole report, and you will find the same overcharges in nearly every instance. Take the report on the foreign relations of the United States, amounting to some 30,500 volumes in all, and the paper charged for this job averages about $7.86 per ream. That this is wrong we have only to remember that the Public Printer has nowhere any account of paper costing this sum used in this kind of printing.

And here I would remark that Mr. Clapp, through a whitewashing report made by the chairman of the Senate Committee, to whom was referred the memorial of the printers of Washington on the subject of public printing, attempts to break the force of these criticisms on the cost of printing by saying that the calculations of the memorialists were based on erroneous suppositions as to the quantity, the quality, and the consequent cost of the paper used. As to the *quantity* of paper used, Mr. Clapp himself gives us that; and the different formulas adopted in arriving at the exact quantity are so nearly the same, that the discrepancy is trifling. But he claims the memorialists made an "erroneous supposition" as to the *quality* of the paper used. How easily Mr. Clapp might have saved the memorialists from falling into this "erroneous supposition," if like a correct and honest officer he had stated the *quality* of the paper used in his report. The law requires him to give the "*exact* condition of the printing," &c., and by purposely withholding such information his report is unsatisfactory, and gives no information of the cost of public printing. Quantity and quality are the only elements entering into the cost of paper; to give the quantity and omit the quality gave no more *exact* information than to omit the quantity and give the quality.

But Mr. Clapp is careful to say in his communication to the chairman of the Committee on Public Printing that in *one* "example" uncalendered 45-pound paper was taken by Mr. Judd when calendered 53-pound paper was used. But, Mr. Speaker, the Congressional Printer is silent as to the other "examples;" it is fair to suppose that if he had the same reply to make to the other criticisms he would have made it. But who is correct about this paper? Other parties, practical printers, have weighed the books and say that the paper used is uncalendered 45-pound paper.

More than that, Mr. Clapp, on page 4 of his last report, says that under the direction of the Committee on Printing he entered into a contract with Wheelwright, Mudge & Co., of Baltimore, for 30,000 reams of uncalendered 45-pound printing-paper for the year ending December 31, 1873. The average cost of this paper per ream was $5.78. It is true he had some of last year's paper over, and that cost him more; but allowing him the very highest price paid for uncalendered paper remaining over, it would only cost $6.38½. Now where has the Public Printer used the uncalendered paper of 1872, costing $6.38½ per ream, or of 1873, costing $5.78 per ream? There is no place for it.

No, Mr. Speaker; I repeat that the report is loosely and vaguely drawn on purpose to leave a loop-hole for Mr. Clapp to creep out should he ever be questioned. He has been questioned, and you can see how he attempts to get out. On page 6 of the report for 1872 the Congressional Printer says, during the past year, 119,284 pages of documentary composition have been completed. On page 25 of the same report he also gives the summary of documentary composition at 119,284 pages. By reference to pages 14, 19, and 23, I find the Ku-Klux report, a book consisting of 13 volumes, and containing about 8,000 pages, charged *three times*. By this treble-entry system of book-keeping, Mr. Clapp takes a credit for 16,000 pages of composition which was never done. A mistake of 16,000 pages in an aggregate of 119,000 pages, will, I take it, inspire no great confidence in the accuracy of Mr. Clapp's report. Every one knows the cost of composition could only be incident to the first 8,000 pages.

The same principle of book-keeping was followed in printing the Congressional Directory for the third session of the Forty-second Congress. The first edition, consisting of 10,000 copies of 140 pages each, is stated to have cost $624.66; this of course included composition. Shortly after a second edition of the same number of copies was published costing $642.65, which includes composition a second time. Yet every member of Congress knows that the second edition is precisely like the first, with the exception of here and there a correction made necessary by a change of residence or the election of a new member.

On page 43 of the report he says the amount of savings in excess of expenditure is $264,812.11. How is this possible, if the Congressional Printer has only charged the cost of labor and material, as he contends? On his theory of charging Congress and the various Departments the cost of all work done, there is no room for profit or loss. Of course, Mr. Speaker, he could arrive at such a balance only by his hocus-pocus system of book-keeping. If the printer has obeyed the law there is no place for this balance. But when we come to the Post-Office Department we will then see how this balance is reached. For it is only put in the statement to mislead Congress by making it believe that a profit of nearly $265,000 has been realized during the last year.

Mr. Speaker, the law also requires the Congressional Printer to render to Congress and the Executive Departments a detailed statement of the accounts with the various public offices.

By reference to the annual reports of the Government Printing Office it will be seen that the accounts for work done for Congress are rendered very much in detail, while those for work done for the Departments are lumped; as for example, on page 28 of the last report the Congressional Printer says he has performed work for the Post-Office Department amounting to $220,000, and that is all we or the Department itself know about the matter. What the printing was, or the rates at which it has been charged, remains a profound mystery.

The printing for the various Executive Departments for last year, as stated in this report, amounted to $1,210,000, and for the five years past it has amounted to about $5,000,000. For this vast sum of money there has never been a voucher or detailed statement; nothing by which the accounts for the work could be examined or even known. We have the statement of the Congressional Printer that he has executed work to that extent at such prices as he has seen fit to charge, and these prices he has carefully withheld in direct violation of an express statute.

During the present session Messrs. Rives & Bailey, in their efforts to procure information for use before the committee, came upon the fact that this law had been persistently violated, and soon thereafter the Congressional Printer was instructed to render (from February 1) vouchers with each job of work done for the Departments. It thus came at last to be known at what prices he was charging for the work done in his office, and it was then plain enough to be seen why there had been no compliance with the law. At about this time the appropriation of $175,000 for printing for the Post-Office Department was exhausted, and the Postmaster-General came before the Committee on Appropriations to ask for an additional sum of money to enable his Department to get the necessary printing done for the remainder of the year. He was not willing to rest under the imputation of having squandered his appropriation in useless printing and fancy binding, and he therefore explained to the committee the manner in which his money was consumed. It there appeared that the prices charged against the Departments were perfectly unheard-of, out of all bounds of reason—from ten to twelve times the actual cost of the work done. One bill was rendered for $138, while the actual cost of that job was less than half of that sum. Another item charged at $140 was subsequently modified by the Congressional Printer himself and reduced to $11. There were many others of like character, but I will not take the time to enumerate them.

I will refer to one other instance only in this connection, and that because of the enormity of the overcharge. It was there shown that the Congressional Printer had been in the habit of charging $3.06 per 1,000 for printing a few words—about five in number—upon the envelopes used by the public officers. This work has been done on a press capable of printing 20,000 per day; and at this rate of charging the press was earning for his credit at the Treasury $61.20 per day, while the expense was $2 per day for a pressman and $1.50 each for two girls, making a total expense of $5. The expenses were $5 and the charge $61.20, or a little more than twelve times the actual cost!

What, Mr. Speaker, will the people think of our Public Printing

Office which eats up half a million dollars' worth of paper per annum, and then charges the Government twelve times the actual cost of labor expended upon it? Two million dollars a year are swallowed up in this manner by this gluttonous establishment, when respectable and responsible individuals are anxious even to do our printing for a much less sum of money.

When the Congressional Printer was confronted by these facts and expositions he had the unblushing effrontery to say that he was not aware his prices were so high; he had not examined them at all; he was pursuing the same system he found upon his entrance into office; but was now grateful that his attention had been called to the matter, and he would proceed to correct the wrong. He was thereupon requested to revise his charges for the work done for the Post-Office Department since the beginning of this fiscal year and see what the same would amount to on the basis of actual costs. He did so, and concludes he could return $40,000 to the credit of that Department. Just where the money came from to be placed to this credit I have not learned.

I now ask the House to listen to what he calls the actual expense of his work. For some half letter-sheets, circular forms, printed in large numbers for use in the business of the Post-Office Department, under the revised schedule the Congressional Printer has charged $5.41, $5.65, $6.32, and $6.60 per 1,000, including printing and paper. An offer was made to the Department, by a first-class printing establishment in this city, without any knowledge of the prices charged at the Government Printing Office, to print all that class of work on as good quality of paper for $4.50 per 1,000. Not long since the Congressional Printer ruled five reams of letter-paper for the Post-Office Department for which he charged, under his revised scale of prices, $6.88. A private binding and ruling establishment in this city charges for exactly the same work 75 cents per ream, or $3.75 for five reams, against the Congressional Printer's $6.88, which he says is the actual cost. This is 80 per cent. more than the private office charges for like work; and in addition to this the private office makes a satisfactory profit. The lowest price at which the Congressional Printer has printed the official envelopes since the revision of his rates is 90 cents per 1,000, and at this rate his press earns for his credit at the Treasury $18 per day on an expense of $5.

If these charges are correct, and no more than the cost of the work done, then the Government Printing Office had better be set on fire and burned down if no other way of disposing of it can be found. Private parties will do the work for much less money. If the charges are more than the costs of the work done, why are they so rendered? And what becomes of the large margin? If there were any money left on hand to the Congressional Printer's credit to represent these overcharges, a satisfactory explanation might be made; but the money is all gone, and as a general thing we have been called upon for a deficiency. During the last month of the last fiscal year the office was nearly closed up because the money was exhausted, and at the same time there was a great press of work to be done.

The only reasonable conclusion I can reach in reference to the matter is this: by this system the Congressional Printer has been enabled to report certain work as having been done at a remarkably low figure; and, sir, by this same system he has been enabled to do in his office many thousands of dollars' worth of printing and binding for private purposes for which no charge whatever has been made. When he was called upon two years ago for estimates in regard to the publication of the debates he well knew the work could not be done for the figures he submitted, and he also well knew that it would make no material difference, because he could easily cover up any deficiency by his regular system of overcharging the Departments.

As evidence that this powerful leverage has been used for this very purpose, I will refer you to a few examples. The cost of setting the type for the Ku-Klux report (on pages 19 and 23 of the annual report of December, 1872,) appears to have been about $6,600. This service could not have been performed for any less than $19,000; but it was desired that the expense should appear to be low, and therefore it was charged about one-third of the cost, well knowing that the deficiency was amply covered elsewhere. Another example of this may be found in the folding of the sheets of the Gongressional Globe, which work in connection with the binding has been done by the Congressional Printer. The folding and gathering of the sheets of the Globe during the past five years has cost the Government about $25,000, and this expenditure is omitted from the report altogether; not one dollar of it has ever been charged against the work, and the convenient system of book-keeping practiced in our public printing enables such things to be done with perfect ease and protection. There are scores of similar examples which might be referred to for the purpose of showing how this power has been used, but I will not pause here to allude to them. I have been thus particular in explaining the details of the system practiced by the Congressional Printer, that you may all understand just how easy it is for him to say that he is printing the debates within his estimates.

Mr. Speaker, I now ask your attention to his report of the cost of printing the RECORD during the executive session of the Senate in March, 1873, and we shall find here a forcible illustration of the convenient system of accounting already explained. On page 23 of the last annual report we find the charge entered for printing of the RECORD. The cost of the daily edition is stated to have been $249.26 for the 900 copies. This charge is said to cover paper, press-work, folding, stitching, and mailing, the type-setting being included in the charge entered against the book edition in the line below. When asked by the committee if there were any books in his office showing the separate items of expenditures making up that amount, he replied that he charged the work up according to his estimates, and he did not know whether there had been any detailed account of the expenditures kept or not. If there had been such a book he would have produced it; and we are left to understand that no such book has been kept. It would not suit his purpose to keep such a detailed account of cost; he well knew that his estimates were too low; and trusting to the system which had protected him thus far he depended upon it in this emergency to enable him to wrest the printing of the debates from the hands of the gentlemen who have served the Government honestly and faithfully so long.

By diligent and patient effort the committee at last succeeded in ascertaining from the employés of the office who were engaged upon this work that there was paid to them for this service $477.60; and by the testimony of the Congressional Printer the paper for it cost $170.81, making total cost $648.41, while it is stated in the official report to be $249.26; but a very little more than one-third of the actual cost. And the only excuse or apology offered by him for thus willfully falsifying his official statement to Congress was that he might conform to his estimates! What do you think, sir, of that style of book-keeping? Is it acceptable to Congress? Is it acceptable to the people, who furnish the money that is thus mysteriously manipulated? What is the necessity of thus flagrantly falsifying if the conduct of his office had been entirely straightforward and honest? If he has been laboring for the interests of the Government in the matter of printing the debates, why is there any occasion for him to conceal the truth?

When the Congressional Printer was asked if the cost of stereotyping the book edition was included in his statement of cost given in the annual report, he answered that it was not; that as stereotyping was not originally estimated for, it could not be included in his report, because he "charged the RECORD up just as the proposals read." He admitted the cost to be from 90 cents to $1 per page, and as there were 213 pages to be stereotyped, the cost at $1 per page must be $213. This sum is therefore to be added as a legitimate item in the cost of the work. In Senate Miscellaneous Document No. 5, first session Forty-third Congress, report of the Secretary of the Senate, it appears that the making of the index to the RECORD for the executive session cost $75. This money was not paid out by the Congressional Printer and therefore could not be reported by him, but as it is one of the elements of cost and always must be, it is to be added to the expense.

The cost of the book edition is given in the report as $2,104.86. This includes type-setting and the printing on the basis of the estimates. Now, if we bring these items together we shall have the following:

Book edition, including type-setting	$2,104 86
Daily edition	648 41
Stereotyping	213 00
Making index	75 00
Total	3,041 27

These items are none of them disputed by the Congressional Printer; they are all admitted to be correct, and we may therefore set this much down as definitely ascertained. This does not include anything for wear and tear of type and machinery, nor interest upon the investment employed. There are one or two items more claimed by Rives & Bailey as proper additions to the cost of the work, one of which is $125 for gas. The Congressional Printer disputed this item, and said there was no more gas consumed on account of the RECORD than there would have been if the work had not been done. As gas was consumed for two or three hours each morning in both the press-room and the folding-room, solely on account of the printing of the debates, I am unable to discover why there should not be some allowance made for this item of expense.

But suppose this and all other disputed items be omitted; suppose no account is taken of the many contingent items that always follow a large printing establishment, and suppose no allowance be made for wear and tear and interest on capital; we shall then have the acknowledgment of the Congressional Printer of $3,041.27 as the cost of the work. In his official report it is given to us as $2,354.12, only about three-fourths of the actual cost. On page 11 of the testimony there is a detailed statement showing that the entire cost to the Government of printing the proceedings of that session under proposition of Rives & Bailey would have been $2,889.26, which is 5 per cent. less than the acknowledged cost under the Congressional Printer; and they claim that the difference is really much greater than this. There is certainly this difference in their favor, beyond all possibility of dispute, and the difference is acknowledged by the Congressional Printer. But, sir, the proposition of Messrs. Rives & Bailey, now before the House, is even lower than the one submitted by them in February, 1873, and under which the above comparison is made. So if economy is shown in their favor on the basis of their first proposition, there will be much more under the one now proposed. What clearer, stronger evidence than this is desired? The Congressional Printer states on page 9 of his last report, that he had—

A fair opportunity for testing the capacity of this office for the work; and I am fully convinced, under that experience, that promptness and economy are secured

by the transfer. Its resources are so manifold and its economy of labor and material is such that at least 30 per cent. of the money heretofore expended in accomplishing this work will be saved to the Government.

The Congressional Printer has here stated what he must have known to be a positive falsehood, and what he has since, before the committee, acknowledged to be such. Shall we tamely submit to this systematic deception at the hands of a public officer, and make no effort to inquire into the motive for such conduct?

I now come to the present session, and I had even more difficulty in arriving at the cost as the work is now being done, because there was a determined effort to deceive and mislead in every respect. I have not time now, nor is it necessary, to point out the inaccuracies and contradictions in the testimony. Any one who will give the case a careful reading will be able to see for himself.

In the course of the Congressional Printer's examination, he submitted a statement purporting to show the actual expenditure on account of the RECORD during the month of February, and he also applied his estimates to the services rendered for the purpose of showing a comparison between actual expense and his estimates of the same. This comparative statement may be found on page 40 of the testimony, and upon it we have had to depend largely for information. A careful analysis of it shows a result entirely different from that which it pretended to exhibit. From that statement the Congressional Printer would have us believe that he is now printing the debates nearly 20 per cent. less than his estimates, and if all his previous statements had been truthful we should have been inclined to accept that without question, because it bears upon the face of it the appearance of accuracy and a willingness to let the truth be known. But when misrepresentation and deception have been the rule, it will not do to accept anything without the closest scrutiny.

I will first analyze the application of the estimates to the work done, and we come upon the first misstatement in the first line. It is stated that the composition would, at $1.50 per 1,000 ems—the estimated cost—amount to $8,465.55. The actual measurement of matter was 5,484,000 ems, and at $1.50 per 1,000, the cost would be $8,226. The second misstatement is found in the fourth line. The 1,292 copies of the RECORD furnished to subscribers are put into this showing, not in accordance with the estimates, but at 17 cents per 100 pages, the rate at which they are furnished to subscribers, and which rate is nearly 10 per cent. higher than the estimates. Each copy of the RECORD for the month of February contained 868 pages or 54¼ sheets, and as the estimate was 2 cents for each additional sheet, 54¼ would amount to $1.08¼. This, then, is the price per copy of the RECORD under the estimates for the month of February, and 1,292 copies would amount to $1,401.82, instead of $1,906.47 as stated by the Congressional Printer.

The next item is press-work on documents, $723. There never was any estimate for document printing in connection with the printing of the RECORD, and the item should not be put into a statement which purports to be made out in accordance with the estimates. The last item is for press-work on RECORD, $155.80. This, sir, is barefaced impudence, or inexcusable ignorance, but it is in keeping with almost everything we get from that official. The estimate of the Congressional Printer included in plain terms the paper, the press-work, folding, mailing, and every possible service connected with the getting out of the daily edition, and the press-work is therefore included in the 2 cents per sheet before mentioned. There is no place in the estimates where press-work is provided for, nor is there the slightest justification in the world for the appearance of this item here. Why should he seek to put it in and thus endeavor to mislead us in our investigation in that way?

But these last two items, though neither of them has any business whatever in the statement, serve the purpose of exposing another instance of the Congressional Printer's charging exorbitant prices on some work that he may do another piece for little or nothing. He says there were 241,000 impressions of document work, costing $723. He also says there were 2,258 copies of the RECORD, 868 pages each, which would give 250,000 impressions, costing $155.80. Documents are charged at $3 per 1,000 and the RECORD at 62 cents per 1 000.

As we progress in this statement it is plain to be seen that its character is no better than that of everything else the Congressional Printer has given to us, notwithstanding its very bland appearance at first.

The cost under the estimates would be as follows:

Composition of debates, 5,484,000 ems, at $1.50	$8,226 00
Composition of documents in wasting time	220 44
500 copies daily to Congress	509 41
466 copies daily to Congress	505 61
1,292 copies daily to subscribers	1,401 82
Total	10,863 28

Now as to the actual cost. The pay-roll for the RECORD room we have no means of knowing anything about. Gas bill for RECORD-room is said to be $221.10. On page 8 of Mr. Church's closing statement before the committee will be found a letter from the secretary of the Gas-light Company, stating that of the one hundred and two burners in the room, twenty-four are supplied from a meter that is attached to another part of the building; therefore the meter in the RECORD room reports only about three fourths of the gas consumed in the room—another effort to make the expense appear as little as possible. Therefore we must add one-third of the gas reported in order to get the correct quantity. This makes that item $293.10. There are several omissions of expense which must be added. The clerk in the Senate post-office receives four dollars per day, and as he is said to perform some service at the office, mornings before coming to the Capitol, the Congressional Printer allows three-fourths of his wages to be charged to the RECORD.

There were 23 working days in February, and at $4 per day the salary of the clerk would amount to $92, three-fourths of which, $69, is chargeable to the RECORD. The next omission is the gas consumed in the press-room and folding-room, which the Congressional Printer allows to be $76.36. The next omission is the wages of the watchman, 28 days, at $3.30, amounting to $92.40. The next omission is for stereotyping 825 pages, at $1 per page, $825. If we collect together all the items of cost, they will stand thus:

Pay-roll for RECORD-room	$6,490 05
Pay-roll for press-room	827 47
Pay-roll for folding-room	1,062 58
Clerk at Senate post-office	69 00
Paper for 966 copies daily to Congress	607 08
Paper for 1,292 copies daily to subscribers	835 28
Gas bill for RECORD-room	293 10
Gas bill for press and folding rooms	76 36
Watchman, 28 days at $3.30	92 40
Stereotyping 825 pages at $1	825 00
Actual expense incurred	11,181 32
Cost under estimate	10,863 28
Difference	318 04

So instead of the service already performed by him during the month of February being 20 per cent. below the estimate, it is actually *above* the estimate, and this showing is more favorable for the Congressional Printer than any which can be made, because the only item in his estimates that is sufficient to cover the cost is that of type-setting, and this is included in the above statement. By this statement it appears that the type-setting did not cost so much as the estimates within about $1,800, while there was a deficiency on the others of something over $2,100; and when we come to the bound edition every single item is largely underestimated. The service connected with the daily is considerably less than that belonging to the regular number on the bound edition; therefore when the entire service is considered the deficiency in the estimates comes to be large. The estimate for the bound edition was about 10 cents per 100 pages, and I now propose to show you that the cost is not less than 15 cents for that quantity of work, or 50 per cent. more than it was estimated would be the cost. In the first place, the only service that is rendered upon the daily and not upon the bound edition is that of stitching; there is the same amount of paper required, there is the same quantity of press-work, and the folding and gathering must be done the same for one as the other. But there are elements of cost upon the book edition which do not enter into the daily, such as dry-pressing, stereotyping, printing on finer paper and at a slower rate of speed. These items more than overbalance the cost of stitching, so that the cost of the book edition cannot by any possibility be less than that of the daily, and the probabilities are that it will be more.

Now the Congressional Printer charges 17 cents per 100 pages for the daily RECORD to subscribers, and this rate is fixed upon under the authority of the law which allows public documents to be sold for the cost of paper and press-work and 10 per cent. thereon. This rate, therefore, is to be taken as his acknowledgment of the actual cost and 10 per cent. added, from which, by a simple arithmetical calculation, the cost is ascertained to be 15.5 cents per 100 pages. This point was examined very closely by the committee during the investigation, and the testimony of the Congressional Printer fully corroborated the figures above named. At first he prevaricated as he did upon almost everything else. He said this rate was intended to apply to the daily and not to the bound edition. The chairman then said:

Question. Do I then understand you that the cost of the daily and bound volumes, where composition is included, would be above the 15.5 cents?
Answer. No, sir.
Q. Would it vary essentially?
A. It would be below that somewhat, I think.

By Mr. HALE:

Q. Are you not wrong? You would have to add to that the cost of composition?
A. O, yes; it would cost more; that is for the first composition. *This is the estimated cost of press-work and paper.*
Q. *The 17 cents per 100 pages?*
A. *Yes, sir; that is the estimated cost of extra copies for the press-work and paper.*

Then at the bottom of the same page, (27,) but on the following day, the Congressional Printer endeavored to explain again, that this rate was fixed upon with reference to the daily edition only, and could not apply to the bound edition. The committee, it appears from the testimony, could not understand how it made any difference what it was intended to apply to; if it was the cost that was all there was to the question, whether the purpose was to apply it to the one or the other. After some cross-questioning by the chairman, as will be seen by reference to pages 28 and 29, the Congressional Printer finally replied *that this rate was as near the cost as could be approximated, and the committee took this as his answer in reference to the cost.*

Now, I wish to call your attention to the February statement, before referred to, and will show you from it that the rate is not high enough to cover the actual cost. The Congressional Printer says the

number of copies printed was 2,258, each containing 868 pages. This gives an aggregate number of 1,959,944 pages. The cost of producing this quantity of work is as follows:

Pay-roll in press-room	$827 47
Pay-roll in folding-room	1,062 58
Paper for 966 copies to Congress	607 08
Paper for 1,292 copies to subscribers	835 28
Clerk at Senate Post-Office	69 00
Watchman, 28 days, at $3.30	92 40
Gas bill in press and folding-rooms	76 36
Cost of 1,959,944 pages	3,570 17

Cost per 100 pages 17¾ cents.
Cost, and 10 per cent. added, 19½ cents.

This calculation does not make any allowance for any of the many contingent items of expense, nor for wear and tear of type and interest on capital; so it must be perfectly apparent to any one who desires to reach the truth that instead of 15.5 cents being too high it is too low. But suppose we accept that as the cost, and apply it to the full number of copies of the book edition now contemplated, namely, about 10,400, of 5,714 pages each, we shall find that the cost of executing that quantity of work under the present arrangement will be $160,224.03; while by the proposition of Messrs. Rives & Bailey they offer to perform this service for $148,564, making a saving to the Government of $11,660 on a single long session on the printing; and on the binding of the book edition their proposition is about 12 cents per volume below the cost at the Public Printing Office. This would save to the Government about $9,000 in a single long session, or a little more than $20,000 on printing and binding together. These figures challenge the closest scrutiny, for they are strictly correct.

Here then is an opportunity for us to save about $30,000 in the two sessions of Congress on the printing and binding of our debates, and at the same time to deal justly and fairly with an enterprising firm that has for many years served us justly and fairly.

DEVELOPMENT OF THE RESOURCES OF THE COUNTRY.

[Mr. BIERY addressed the House on the bill (H. R. No. 1246) to establish at the seat of Government a department of manufactures and mining, and for other purposes, and the substitute therefor reported by the Committee on Manufactures. His remarks will appear in the Appendix.]

CIVIL RIGHTS.

Mr. RAPIER. Mr. Speaker, I had hoped there would be no protracted discussion on the civil-rights bill. It has been debated all over the country for the last seven years; twice it has done duty in our national political campaigns; and in every minor election during that time it has been pressed into service for the purpose of intimidating the weak white men who are inclined to support the republican ticket. I was certain until now that most persons were acquainted with its provisions, that they understood its meaning; therefore it was no longer to them the monster it had been depicted, that was to break down all social barriers, and compel one man to recognize another socially, whether agreeable to him or not.

I must confess it is somewhat embarrassing for a colored man to urge the passage of this bill, because if he exhibit an earnestness in the matter and express a desire for its immediate passage, straightway he is charged with a desire for social equality, as explained by the demagogue and understood by the ignorant white man. But then it is just as embarrassing for him not to do so, for, if he remain silent while the struggle is being carried on around, and for him, he is liable to be charged with a want of interest in a matter that concerns him more than any one else, which is enough to make his friends desert his cause. So in steering away from Scylla I may run upon Charybdis. But the anomalous, and I may add the supremely ridiculous, position of the negro at this time, in this country, compel me to say something. Here his condition is without a comparison, parallel alone to itself. Just think that the law recognizes my right upon this floor as a law-maker, but that there is no law to secure to me any accommodations whatever while traveling here to discharge my duties as a Representative of a large and wealthy constituency. Here I am the peer of the proudest, but on a steamboat or car I am not equal to the most degraded. Is not this most anomalous and ridiculous?

What little I shall say will be more in the way of stating the case than otherwise, for I am certain I can add nothing to the arguments already made in behalf of the bill. If in the course of my remarks I should use language that may be considered inelegant, I have only to say that it shall be as elegant as that used by the opposition in discussing this measure; if undignified, it shall not be more so than my subject; if ridiculous, I enter the plea that the example has been set by the democratic side of the House, which claims the right to set examples. I wish to say in justice to myself that no one regrets more than I do the necessity that compels one to the manner born to come in these Halls with hat in hand (so to speak) to ask at the hands of his political peers the same public rights they enjoy. And I shall feel ashamed for my country if there be any foreigners present, who have been lured to our shores by the popular but untruthful declaration that this land is the asylum of the oppressed, to hear a member of the highest legislative body in the world declare from his place, upon his responsibility as a Representative, that notwithstanding his political position he has no civil rights that another class is bound to respect. Here a foreigner can learn what he cannot learn in any other country, that it is possible for a man to be half free and half slave, or, in other words, he will see that it is possible for a man to enjoy political rights while he is denied civil ones; here he will see a man legislating for a free people, while his own chains of civil slavery hang about him, and are far more galling than any the foreigner left behind him; here will see what is not to be seen elsewhere, that position is no mantle of protection in our "land of the free and home of the brave;" for I am subjected to far more outrages and indignities in coming to and going from this capital in discharge of my public duties than any criminal in the country providing he be white. Instead of my position shielding me from insult, it too often invites it.

Let me cite a case. Not many months ago Mr. Cardoza, treasurer of the State of South Carolina, was on his way home from the West. His route lay through Atlanta. There he made request for a sleeping-berth. Not only was he refused this, but was denied a seat in a first-class carriage, and the parties went so far as to threaten to take his life because he insisted upon his rights as a traveler. He was compelled, a most elegant and accomplished gentleman, to take a seat in a dirty smoking-car, along with the traveling rabble, or else be left, to the detriment of his public duties.

I affirm, without the fear of contradiction, that any white ex-convict (I care not what may have been his crime, nor whether the hair on the shaven side of his head has had time to grow out or not) may start with me to-day to Montgomery, that all the way down he will be treated as a gentleman, while I will be treated as the convict. He will be allowed a berth in a sleeping-car with all its comforts, while I will be forced into a dirty, rough box with the drunkards, apple-sellers, railroad hands, and next to any dead that may be in transit, regardless of how far decomposition may have progressed. Sentinels are placed at the doors of the better coaches, with positive instructions to keep persons of color out; and I must do them the justice to say that they guard these sacred portals with a vigilance that would have done credit to the flaming swords at the gates of Eden. Tender, pure, intelligent young ladies are forced to travel in this way if they are guilty of the crime of color, the only unpardonable sin known in our Christian and Bible lands, where sinning against the Holy Ghost (whatever that may be) sinks into insignificance when compared with the sin of color. If from any cause we are compelled to lay over, the best bed in the hotel is his if he can pay for it, while I am invariably turned away, hungry and cold, to stand around the railway station until the departure of the next train, it matters not how long, thereby endangering my health, while my life and property are at the mercy of any highwayman who may wish to murder and rob me.

And I state without the fear of being gainsaid, the statement of the gentleman from Tennessee to the contrary notwithstanding, that there is not an inn between Washington and Montgomery, a distance of more than a thousand miles, that will accommodate me to a bed or meal. Now, then, is there a man upon this floor who is so heartless, whose breast is so void of the better feelings, as to say that this brutal custom needs no regulation? I hold that it does and that Congress is the body to regulate it. Authority for its action is found not only in the fourteenth amendment to the Constitution, but by virtue of that amendment (which makes all persons born here citizens,) authority is found in article 4, section 2 of the Federal Constitution, which declares in positive language "that the citizens of each State shall have the same rights as the citizens of the several States." Let me read Mr. Brightly's comment upon this clause; he is considered good authority, I believe. In describing the several rights he says they may be all comprehended under the following general heads: "Protection by the Government; the enjoyment of life and liberty, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety; the right of a citizen of one State to pass through or to reside in any other State for purposes of trade, agriculture, professional pursuits, or otherwise."

It is very clear that the right of locomotion without hinderance and everything pertaining thereto is embraced in this clause; and every lawyer knows if any white man in *ante bellum* times had been refused first-class passage in a steamboat or car, who was free from any contagious disease, and was compelled to go on deck of a boat or into a baggage-car, and any accident had happened to him while he occupied that place, a lawsuit would have followed and damages would have been given by any jury to the plaintiff; and whether any accident had happened or not in the case I have referred to, a suit would have been brought for a denial of rights, and no one doubts what would have been the verdict. White men had rights then that common carriers were compelled to respect, and I demand the same for the colored men now.

Mr. Speaker, whether this deduction from the clause of the Constitution just read was applicable to the negro prior to the adoption of the several late amendments to our organic law is not now a question, but that it does apply to him in his new relations no intelligent man will dispute. Therefore I come to the national, instead of going to the local Legislatures for relief, as has been suggested, because the grievance is national and not local; because Congress is the law-making power of the General Government, whose duty it is to see that there be no unjust and odious discriminations made between its citizens. I look to the Government in the place of the several States, because

it claims my first allegiance, exacts at my hands strict obedience to its laws, and because it promises in the implied contract between every citizen and the Government to protect my life and property. I have fulfilled my part of the contract to the extent I have been called upon, and I demand that the Government, through Congress do likewise. Every day my life and property are exposed, are left to the mercy of others, and will be so as long as every hotel-keeper, railroad conductor, and steamboat captain can refuse me with impunity the accommodations common to other travelers. I hold further, if the Government cannot secure to a citizen his guaranteed rights it ought not to call upon him to perform the same duties that are performed by another class of citizens who are in the free and full enjoyment of every civil and political right.

Sir, I submit that I am degraded as long as I am denied the public privileges common to other men, and that the members of this House are correspondingly degraded by recognizing my political equality while I occupy such a humiliating position. What a singular attitude for law-makers of this great nation to assume, rather come down to me than allow me to go up to them. Sir, did you ever reflect that this is the only Christian country where poor, finite man is held responsible for the crimes of the infinite God whom you profess to worship? But it is; I am held to answer for the crime of color, when I was not consulted in the matter. Had I been consulted, and my future fully described, I think I should have objected to being born in this gospel land. The excuse offered for all this inhuman treatment is that they consider the negro inferior to the white man, intellectually and morally. This reason might have been offered and probably accepted as truth some years ago, but no one now believes him incapable of a high order of culture, except some one who is himself below the average of mankind in natural endowments. This is not the reason as I shall show before I have done.

Sir, there is a cowardly propensity in the human heart that delights in oppressing somebody else, and in the gratification of this base desire we always select a victim that can be outraged with safety. As a general thing the Jew has been the subject in most parts of the world; but here the negro is the most available for this purpose; for this reason in part he was seized upon, and not because he is naturally inferior to any one else. Instead of his enemies believing him to be incapable of a high order of mental culture, they have shown that they believe the reverse to be true, by taking the most elaborate pains to prevent his development. And the smaller the caliber of the white man the more frantically has he fought to prevent the intellectual and moral progress of the negro, for the simple but good reason that he has most to fear from such a result. He does not wish to see the negro approach the high moral standard of a man and gentleman.

Let me call your attention to a case in point. Some time since a well-dressed colored man was traveling from Augusta to Montgomery. The train on which he was stopped at a dinner-house. The crowd around the depot seeing him well dressed, fine-looking, and polite, concluded he must be a gentleman, (which was more than their righteous souls could stand,) and straightway they commenced to abuse him. And, sir, he had to go into the baggage-car, open his trunks, show his cards, faro-bank, dice, &c., before they would give him any peace; or, in other words, he was forced to give satisfactory evidence that he was not a man who was working to elevate the moral and intellectual standard of the negro before they would respect him. I have always found more prejudice existing in the breasts of men who have feeble minds and are conscious of it, than in the breasts of those who have towering intellects and are aware of it. Henry Ward Beecher reflected the feelings of the latter class when on a certain occasion he said: "Turn the negro loose; I am not afraid to run the race of life with him." He could afford to say this, all white men cannot; but what does the other class say? "Build a Chinese wall between the negro and the school-house, discourage in him pride of character and honest ambition, cut him off from every avenue that leads to the higher grounds of intelligence and usefulness, and then challenge him to a contest upon the highway of life to decide the question of superiority of race." By their acts, not by their words, the civilized world can and will judge how honest my opponents are in their declarations that I am naturally inferior to them. No one is surprised that this class opposes the passage of the civil-rights bill, for if the negro were allowed the same opportunities, the same rights of locomotion, the same rights to comfort in travel, how could they prove themselves better than the negro?

Mr. Speaker, it was said, I believe by the gentleman from Kentucky, [Mr. BECK,] that the people of the South, particularly his State, were willing to accord the colored man all the rights they believe him guaranteed by the Constitution. No one doubts this assertion. But the difficulty is they do not acknowledge that I am entitled to any rights under the organic law. I am forced to this conclusion by reading the platforms of the democratic party in the several States. Which one declares that that party believes in the constitutionality of the Reconstruction Acts or the several amendments? But upon the other hand, they question the constitutionality of every measure that is advanced to ameliorate the condition of the colored man; and so skeptical have the democracy become respecting the Constitution, brought about by their unsuccessful efforts to find constitutional objections to every step that is taken to elevate the negro, that now they begin to doubt the constitutionality of the Constitution itself. The most they have agreed to do, is to obey present laws bearing on manhood suffrage until they are repealed by Congress or decided to be unconstitutional by the Supreme Court.

Let me read what the platform of the democratic party in Alabama has to say on this point:

> The democratic and conservative party of the State of Alabama, in entering upon the contest for the redemption of the State government from the radical usurpers who now control it, adopt and declare as their platform—
>
> 1. That we stand ready to obey the Constitution of the United States and the laws passed in pursuance thereof, and the constitution and laws of the State of Alabama, so long as they remain in force and unrepealed.

I will, however, take the gentleman at his word; but must be allowed to ask if so why was it, even after the several amendments had been officially announced to be part of the Federal Constitution, that his State and others refused to allow the negro to testify in their courts against a white man? If they believed he should be educated (and surely this is a right) why was it that his school-houses were burned down, and the teachers who had gone down on errands of mercy to carry light into dark places driven off, and in some places killed? If they believe the negro should vote, (another right, as I understand the Constitution,) why was it that Ku-Klux Klans were organized to prevent him from exercising the right of an American citizen, namely, casting the ballot—the very thing they said he had a right to do?

The professed belief and practice are sadly at variance, and must be intelligently harmonized before I can be made to believe that they are willing to acknowledge that I have any rights under the Constitution or elsewhere. He boasts of the magnanimity of Kentucky in allowing the negro to vote without qualification, while to enjoy the same privilege in Massachusetts he is required to read the constitution of that State. He was very unhappy in this comparison. Why, sir, his State does not allow the negro to vote at all. When was the constitution of Kentucky amended so as to grant him the elective franchise? They vote there by virtue of the fifteenth amendment alone, independent of the laws and constitution of that Commonwealth; and they would to-day disfranchise him if it could be done without affecting her white population. The Old Bay State waited for no "act of Congress" to force her to do justice to all of her citizens, but in *ante bellum* days provided in her constitution that all male persons who could read and write should be entitled to suffrage. That was a case of equality before the law, and who had a right to complain? There is nothing now in the amended Federal Constitution to prevent Kentucky from adopting the same kind of clause in her constitution, when the convention meets to revise the organic law of that State, I venture the assertion that you will never hear a word about it; but it will not be out of any regard for her colored citizens, but the respect for that army of fifty-thousand ignorant white men she has within her borders, many of whom I see every time I pass through that State, standing around the several depots continually harping on the stereotyped phrase, "The damned negro won't work."

I would not be surprised though if she should do better in the future. I remember when a foreigner was just as unpopular in Kentucky as the negro is now; when the majority of the people of that State were opposed to according the foreigner the same rights they claimed for themselves; when that class of people were mobbed in the streets of her principal cities on account of their political faith, just as they have done the negro for the last seven years. But what do you see to-day? One of that then proscribed class is Kentucky's chief Representative upon this floor. Is not this an evidence of a returning sense of justice? If so, would it not be reasonable to predict that she will in the near future send one of her now proscribed class to aid him in representing her interests upon this floor?

Mr. Speaker, there is another member of this body who has opposed the passage of this bill very earnestly, whose position in the country and peculiar relations to the Government compel me to refer to him before I conclude. I allude to the gentleman from Georgia, [Mr. STEPHENS.] He returns to this House after an absence of many years with the same old ideas respecting State-rights that he carried away with him. He has not advanced a step; but unfortunately for him the American people have, and no longer consider him a fit expounder of our organic law. Following to its legitimate conclusion the doctrine of State-rights, (which of itself is secession,) he deserted the flag of his country, followed his State out of the Union, and a long and bloody war followed. With its results most men are acquainted and recognize; but he, Bourbon-like, comes back saying the very same things he used to say, and swearing by the same gods he swore by in other days. He seems not to know that the ideas which he so ably advanced for so many years were by the war swept away, along with that system of slavery which he intended should be the chief corner-stone, precious and elect, of the transitory kingdom over which he was second ruler.

Sir, the most of us have seen the play of Rip Van Winkle, who was said to have slept twenty years in the Katskill Mountains. On his return he found that the small trees had grown up to be large ones; the village of Falling Waters had improved beyond his recollection; the little children that used to play around his knees and ride into the village upon his back had grown up to be men and women and assumed the responsibilities of life; most of his friends, including Nick Vedder, had gone to that bourn whence no traveler returns; but, saddest of all, his child, "Mene," could not remember him. No

one can see him in his efforts to recall the scenes of other days without being moved almost to tears. This, however, is fiction. The life and actions of the gentleman from Georgia most happily illustrate this character. This is a case where truth is stranger than fiction; and when he comes into these Halls advocating the same old ideas after an absence of so many years, during which time we have had a conflict of arms such as the world never saw, that revolutionized the entire body-politic, he stamps himself a living "Rip Van Winkle."

I reiterate, that the principles of "State-rights," for the recognition of which, he now contends, are the ones that were in controversy during our late civil strife. The arguments *pro* and *con* were heard in the roar of battle, amid the shrieks of the wounded, and the groans of the dying; and the decision was rendered amid shouts of victory by the Union soldiers. With it all appear to be familiar except him, and for his information I will state that upon this question an appeal was taken from the forum to the sword, the highest tribunal known to man, that it was then and there decided that National rights are paramount to State-rights, and that liberty and equality before the law should be coextensive with the jurisdiction of the Stars and Stripes. And I will further inform him that the bill now pending is simply to give practical effect to that decision.

I sympathize with him in his inability to understand this great change. When he left here the negro was a chattel, exposed for sale in the market places within a stone's throw of the Capitol; so near that the shadow of the Goddess of Liberty reflected by the rising sun would fall within the slave-pen as a forcible reminder that there was no hopeful day, nothing bright in the future, for the poor slave. Then no negro was allowed to enter these Halls and hear discussions on subjects that most interested him. The words of lofty cheer that fell from the lips of Wade, Giddings, Julian, and others were not allowed to fall upon his ear. Then, not more than three negroes were allowed to assemble at any place in the capital of the nation without special permission from the city authorities. But on his return he finds that the slave-pens have been torn down, and upon their ruins temples of learning have been erected; he finds that the Goddess of Liberty is no longer compelled to cover her radiant face while she weeps for our national shame, but looks with pride and satisfaction upon a free and regenerated land; he finds that the laws and regulations respecting the assembling of negroes are no longer in force, but on the contrary he can see on any public holiday the Butler Zouaves, a fine-looking company of colored men, on parade.

Imagine, if you can, what would have been the effect of such a sight in this city twelve years ago. Then one negro soldier would have caused utter consternation. Congress would have adjourned; the Cabinet would have sought protection elsewhere; the President would have declared martial law; troops and marines would have been ordered out; and I cannot tell all that would have happened; but now such a sight does not excite a ripple on the current of affairs; but over all, and worse to him than all, he finds the negro here, not only a listener but a participant in debate. While I sympathize with him in his inability to comprehend this marvelous change, I must say in all earnestness that one who cannot understand and adjust himself to the new order of things is poorly qualified to teach this nation the meaning of our amended Constitution. The tenacity with which he sticks to his purpose through all the vicissitudes of life is commendable, though his views be objectionable.

While the chief of the late confederacy is away in Europe fleeing the wrath to come in the shape of Joe Johnston's history of the war, his lieutenant, with a boldness that must challenge the admiration of the most impudent, comes into these Halls and seeks to commit the nation through Congress to the doctrine of State-rights, and thus save it from the general wreck that followed the collapse of the rebellion. He had no other business here. Read his speech on the pending bill; his argument was cunning, far more ingenious than ingenuous. He does not deny the need or justness of the measure, but claims that the several States have exclusive jurisdiction of the same. I am not so willing as some others to believe in the sincerity of his assertions concerning the rights of the colored man. If he were honest in this matter, why is it he never recommended such a measure to the Georgia Legislature? If the several States had secured to all classes within their borders the rights contemplated in this bill, we would have had no need to come here; but they having failed to do their duty, after having had ample opportunity, the General Government is called upon to exercise its right in the matter.

Mr. Speaker, time will not allow me to review the history of the American negro, but I must pause here long enough to say that he has not been properly treated by this nation; he has purchased and paid for all, and for more, than he has yet received. Whatever liberty he enjoys has been paid for over and over again by more than two hundred years of forced toil; and for such citizenship as is allowed him he paid the full measure of blood, the dearest price required at the hands of any citizen. In every contest, from the beginning of the revolutionary struggle down to the war between the States, has he been prominent. But we all remember in our late war when the Government was so hard pressed for troops to sustain the cause of the Union, when it was so difficult to fill up the ranks that had been so fearfully decimated by disease and the bullet; when every train that carried to the front a number of fresh soldiers brought back a corresponding number of wounded and sick ones; when grave doubts as to the success of the Union arms had seized upon the minds of some of the most sanguine friends of the Government; when strong men took counsel of their fears; when those who had all their lives received the fostering care of the nation were hesitating as to their duty in that trying hour, and others questioning if it were not better to allow the star of this Republic to go down and thus be blotted out from the great map of nations than to continue the bloodshed; when gloom and despair were wide-spread; when the last ray of hope had nearly sunk below our political horizon, how the negro then came forward and offered himself as a sacrifice in the place of the nation, made bare his breast to the steel, and in it received the thrusts of the bayonet that were aimed at the life of the nation by the soldiers of that government in which the gentleman from Georgia figured as second officer.

Sir, the valor of the colored soldier was tested on many a battle-field, and to-day his bones lie bleaching beside every hill and in every valley from the Potomac to the Gulf; whose mute eloquence in behalf of equal rights for all before the law, is and ought to be far more persuasive than any poor language I can command.

Mr. Speaker, nothing short of a complete acknowledgment of my manhood will satisfy me. I have no compromises to make, and shall unwillingly accept any. If I were to say that I would be content with less than any other member upon this floor I would forfeit whatever respect any one here might entertain for me, and would thereby furnish the best possible evidence that I do not and cannot appreciate the rights of a freeman. Just what I am charged with by my political enemies. I cannot willingly accept anything less than my full measure of rights as a man, because I am unwilling to present myself as a candidate for the brand of inferiority, which will be as plain and lasting as the mark of Cain. If I am to be thus branded, the country must do it against my solemn protest.

Sir, in order that I might know something of the feelings of a freeman, a privilege denied me in the land of my birth, I left home last year and traveled six months in foreign lands, and the moment I put my foot upon the deck of a ship that unfurled a foreign flag from its mast-head, distinctions on account of my color ceased. I am not aware that my presence on board the steamer put her off her course. I believe we made the trip in the usual time. It was in other countries than my own that I was not a stranger, that I could approach a hotel without the fear that the door would be slammed in my face. Sir, I feel this humiliation very keenly; it dwarfs my manhood, and certainly it impairs my usefulness as a citizen.

The other day when the centennial bill was under discussion I would have been glad to say a word in its favor, but how could I? How would I appear at the centennial celebration of our national freedom, with my own galling chains of slavery hanging about me? I could no more rejoice on that occasion in my present condition than the Jews could sing in their wonted style as they sat as captives beside the Babylonish streams; but I look forward to the day when I shall be in the full enjoyment of the rights of a freeman, with the same hope they indulged, that they would again return to their native land. I can no more forget my manhood, than they could forget Jerusalem.

After all, this question resolves itself to this: either I am a man or I am not a man. If one, I am entitled to all the rights, privileges, and immunities common to any other class in this country; if not a man, I have no right to vote, no right to a seat here; if no right to vote, then 20 per cent. of the members on this floor have no right here, but, on the contrary, hold their seats *in violation of law*. If the negro has no right to vote, then one-eighth of your Senate consists of members who have no shadow of a claim to the places they occupy; and if no right to a vote, a half-dozen governors in the South figure as usurpers.

This is the legitimate conclusion of the argument, that the negro is not a man and is not entitled to all the public rights common to other men, and you cannot escape it. But when I press my claims I am asked, "Is it good policy?" My answer is, "Policy is out of the question; it has nothing to do with it; that you can have no policy in dealing with your citizens; that there must be one law for all; that in this case justice is the only standard to be used, and you can no more divide justice than you can divide Deity." On the other hand, I am told that I must respect the prejudices of others. Now, sir, no one respects reasonable and intelligent prejudices more than I. I respect religious prejudices, for example; these I can comprehend. But how can I have respect for the prejudices that prompt a man to turn up his nose at the males of a certain race, while at the same time he has a fondness for the females of the same race to the extent of cohabitation? Out of four poor unfortunate colored women who from poverty were forced to go to the lying-in branch of the Freedmen's Hospital here in the District last year three gave birth to children whose fathers were white men, and I venture to say that if they were members of this body, would vote against the civil-rights bill. Do you, can you wonder at my want of respect for this kind of prejudice? To make me feel uncomfortable appears to be the highest ambition of many white men. It is to them a positive luxury, which they seek to indulge at every opportunity.

I have never sought to compel any one, white or black to associate with me, and never shall; nor do I wish to be compelled to associate with any one. If a man do not wish to ride with me in the street-car I shall not object to his hiring a private conveyance; if he do not wish to ride with me from here to Baltimore, who shall complain if he charter a special train? For a man to carry out his preju-

dices in this way would be manly, and would leave no cause for complaint, but to crowd me out of the usual conveyance into an uncomfortable place with persons for whose manners I have a dislike, whose language is not fit for ears polite, is decidedly unmanly and cannot be submitted to tamely by any one who has a particle of self-respect.

Sir, this whole thing grows out of a desire to establish a system of "caste," an anti-republican principle, in our free country. In Europe they have princes, dukes, lords, &c., in contradistinction to the middle classes and peasants. Further East they have the brahmans or priests, who rank above the sudras or laborers. In those countries distinctions are based upon blood and position. Every one there understands the custom and no one complains. They, poor innocent creatures, pity our condition, look down upon us with a kind of royal compassion, because they think we have no tangible lines of distinction, and therefore speak of our society as being vulgar. But let not our friends beyond the seas lay the flattering unction to their souls that we are without distinctive lines; that we have no nobility; for we are blessed with both. Our distinction is color, (which would necessarily exclude the brahmans,) and our lines are much broader than anything they know of. Here a drunken white man is not only equal to a drunken negro, (as would be the case anywhere else,) but superior to the most sober and orderly one; here an ignorant white man is not only the equal of an unlettered negro, but is superior to the most cultivated; here our nobility cohabit with our female peasants, and then throw up their hands in holy horror when a male of the same class enters a restaurant to get a meal, and if he insist upon being accommodated our scion of royalty will leave and go to the arms of his colored mistress and there pour out his soul's complaint, tell her of the impudence of the "damned nigger" in coming to a table where a white man was sitting.

What poor, simple-minded creatures these foreigners are. They labor under the delusion that they monopolize the knowledge of the courtesies due from one gentleman to another. How I rejoice to know that it is a delusion. Sir, I wish some of them could have been present to hear the representative of the F. F. V.'s upon this floor (and I am told that that is the highest degree that society has yet reached in this country) address one of his peers, who dared asked him a question, in this style: "I am talking to white men." Suppose Mr. Gladstone—who knows no man but by merit—who in violation of our custom entertained the colored jubilee singers at his home last summer, or the Duke de Broglie, had been present and heard this eloquent remark drop from the lips of this classical and knightly member, would they not have hung their heads in shame at their ignorance of politeness, and would they not have returned home, repaired to their libraries, and betaken themselves to the study of Chesterfield on manners? With all these absurdities staring them in the face, who can wonder that foreigners laugh at our ideas of distinction?

Mr. Speaker, though there is not a line in this bill the democracy approve of, yet they made the most noise about the school clause. Dispatches are freely sent over the wires as to what will be done with the common-school system in the several Southern States in the event this bill becomes a law. I am not surprised at this, but, on the other hand, I looked for it. Now what is the force of that school clause? It simply provides that all the children in every State where there is a school system supported in whole or in part by general taxation shall have equal advantages of school privileges. So that if perfect and ample accommodations are not made convenient for all the children, then any child has the right to go to any school where they do exist. And that is all there is in this school clause. I want some one to tell me of any measure that was intended to benefit the negro that they have approved of. Of which one did they fail to predict evil? They declared if the negroes were emancipated that the country would be laid waste, and that in the end he would starve, because he could not take care of himself. But this was a mistake. When the reconstruction acts were passed and the colored men in my State were called upon to express through the ballot whether Alabama should return to the Union or not, white men threw up their hands in holy horror and declared if the negro voted that never again would they deposit another ballot. But how does the matter stand now? Some of those very men are in the republican ranks, and I have known them to grow hoarse in shouting for our platforms and candidates. They hurrah for our principles with all the enthusiasm of a new-born soul, and, sir, so zealous have they become that in looking at them I am amazed, and am often led to doubt my own faith and feel ashamed for my lukewarmness. And those who have not joined our party are doing their utmost to have the negro vote with them. I have met them in the cabins night and day where they were imploring him for the sake of old times to come up and vote with them.

I submit, Mr. Speaker, that political prejudices prompt the democracy to oppose this bill as much as anything else. In the campaign of 1868 Joe Williams, an uncouth and rather notorious colored man, was employed as a general democratic canvasser in the South. He was invited to Montgomery to enlighten us, and while there he stopped at one of the best hotels in the city, one that would not dare entertain me. He was introduced at the meeting by the chairman of the democratic executive committee as a learned and elegant, as well as eloquent gentleman. In North Alabama he was invited to speak at the Seymour and Blair barbecue, and did address one of the largest audiences, composed largely of ladies, that ever assembled in that part of the State. This I can prove by my simon-pure democratic colleague, Mr. SLOSS, for he was chairman of the committee of arrangements on that occasion, and I never saw him so radiant with good humor in all my life as when he had the honor of introducing "his friend," Mr. Williams. In that case they were extending their courtesies to a coarse, vulgar stranger, because he was a democrat, while at the same time they were hunting me down as the partridge on the mount, night and day, with their Ku-Klux Klan, simply because I was a republican and refused to bow at the foot of their Baal. I might enumerate many instances of this kind, but I forbear. But to come down to a later period, the Greeley campaign. The colored men who were employed to canvass North Carolina in the interest of the democratic party were received at all the hotels as other men and treated I am informed with marked distinction. And in the State of Louisiana a very prominent colored gentleman saw proper to espouse the Greeley cause, and when the fight was over and the McEnery government saw fit to send on a committee to Washington to present their case to the President, this colored gentleman was selected as one of that committee. On arriving in the city of New Orleans prior to his departure he was taken to the Saint Charles, the most aristocratic hotel in the South. When they started he occupied a berth in the sleeping-car; at every eating-house he was treated like the rest of them, no distinction whatever. And when they arrived at Montgomery I was at the depot, just starting for New York. Not only did the conductor refuse to allow me a berth in the sleeping-car, but I was also denied a seat in the first-class carriage. Now, what was the difference between us? Nothing but our political faith. To prove this I have only to say that just a few months before this happened, he, along with Frederick Douglass and others, was denied the same privileges he enjoyed in coming here. And now that he has returned to the right party again I can tell him that never more will he ride in another sleeping-car in the South unless this bill become law. There never was a truer saying than that circumstances alter cases.

Mr. Speaker, to call this land the asylum of the oppressed is a misnomer, for upon all sides I am treated as a pariah. I hold that the solution of this whole matter is to enact such laws and prescribe such penalties for their violation as will prevent any person from discriminating against another in public places on account of color. No one asks, no one seeks the passage of a law that will interfere with any one's private affairs. But I do ask the enactment of a law to secure me in the enjoyment of public privileges. But when I ask this I am told that I must wait for public opinion; that it is a matter that cannot be forced by law. While I admit that public opinion is a power, and in many cases is a law of itself, yet I cannot lose sight of the fact that both statute law, and the law of necessity manufacture public opinion. I remember, it was unpopular to enlist negro soldiers in our late war, and after they enlisted it was equally unpopular to have them fight in the same battles; but when it became a necessity in both cases public opinion soon came around to that point. No white father objected to the negro's becoming food for powder if thereby his son could be saved. No white woman objected to the negro marching in the same ranks and fighting in the same battles if by that her husband could escape burial in our savannas and return to her and her little ones.

Suppose there had been no reconstruction acts nor amendments to the Constitution, when would public opinion in the South have suggested the propriety of giving me the ballot? Unaided by law when would public opinion have prompted the Administration to appoint members of my race to represent this Government at foreign courts? It is said by some well-meaning men that the colored man has now every right under the common law; in reply I wish to say that that kind of law commands very little respect when applied to the rights of colored men in my portion of the country; the only law that we have any regard for is *uncommon law* of the most positive character. And I repeat, if you will place upon your statute-books laws that will protect me in my rights, that public opinion will speedily follow.

Mr. Speaker, I trust this bill will become law, because it is a necessity, and because it will put an end to all legislation on this subject. It does not and cannot contemplate any such idea as social equality; nor is there any man upon this floor so silly as to believe that there can be any law enacted or enforced that would compel one man to recognize another as his equal socially; if there be, he ought not to be here, and I have only to say that they have sent him to the wrong public building. I would oppose such a bill as earnestly as the gentleman from North Carolina, whose associations and cultivations have been of such a nature as to lead him to select the crow as his standard of grandeur and excellence in the place of the eagle, the hero of all birds and our national emblem of pride and power. I will tell him that I have seen many of his race to whose level I should object to being dragged.

Sir, it matters not how much men may differ upon the question of State and national rights; there is one class of rights, however, that we all agree upon, namely, individual rights, which includes the right of every man to select associates for himself and family, and to say who shall and who shall not visit at his house. This right is God-given and custom-sanctioned, and there is, and there can be no power overruling your decision in this matter. Let this bill become law and not only will it do much toward giving rest to this weary country on this subject, completing the manhood of my race and perfecting his citizenship, but it will take him from the political arena as a topic

of discussion where he has done duty for the last fifty years, and thus freed from anxiety respecting his political standing, hundreds of us will abandon the political fields who are there from necessity, and not from choice and enter other and more pleasant ones; and thus relieved, it will be the aim of the colored man as well as his duty and interest, to become a good citizen, and to do all in his power to advance the interests of a common country.

Mr. RANSIER. Mr. Speaker, I am obliged to my friend for yielding a portion of his time to me, while I am sorry that by doing so he has interrupted himself in his eloquent speech. I had intended, if I had had the opportunity, to say something on this occasion by way of reply to a part of a recent speech by the gentleman from Mississippi, [Mr. LAMAR,] and that of the gentleman from Tennessee, [Mr. BUTLER.] The few minutes allowed me, however, are not sufficient to enable me even to briefly sketch what I had hoped to be able to say.

The remarks on yesterday of the distinguished Mississippian [Mr. LAMAR] who somewhat electrified the House, and who by the way seems to be somewhat in advance of those for whom he spoke in the matter of a sincere and hearty acquiescence with some of the results of the late war, attracted my attention for more reasons than one. The first was because to many of his utterances importance ought to be attached, coming from the gentleman who spoke. But when he said that the negroes in this country were possessed of all the rights and privileges attaching to other citizens, I cannot admit that he stated what was exactly true. For if that were the fact five millions of people would not be asking the Congress of the United States to-day for the passage of the civil-rights bill. Nor would the dying words of Charles Sumner, addressed to Mr. HOAR, have been uttered, "Do not let the civil-rights bill fail." Nor would the Senate of the United States sit twenty consecutive hours to pass a useless measure. Hence I say that the statement of the distinguished Mississippian that the colored people of this country possessed all the rights attaching to American citizenship, followed up by the imploring appeal that we ought to pay some attention to the rights and interests of the white people of the South, was not exactly true; else we would not be here to-day asking the Congress of the United States to pass the civil-rights bill; nor would we be here to-day reminding the republican party of the country of their solemn obligation to pass such a bill, nor would we be here to remind the republican party to-day that if Congress adjourns without the passage of such a bill, to which it is committed, they will demoralize nine hundred thousand voters in this country and withhold an act of justice from five millions of people. I repeat that the statement of the gentleman from Mississippi is not exactly true, as has already been abundantly proven.

But it is a sign, Mr. Speaker, of the rapid strides of progress we have made as a nation that the distinguished gentleman from Mississippi, identified in the manner he is with the past, is now seeking to blot out that past, so far as clinging to its dead issues is concerned. I hail the spirit of his speech as indicative of the progress and advancing strides we are making as a nation. But I say to-day, and I speak, if I can, to the country, that so far as there is an impression that the colored man in this country has obtained all that attaches to American citizenship, or that the passage of the civil-rights bill will work injuriously to either whites or blacks, there never was a greater mistake made. If that were the fact, I say again there never was a more useless or unnecessary imploration uttered than that embodied in the dying words of Charles Sumner, "Take care of the civil-rights bill."

Now, sir, let me say in the brief moment allowed me that what pains me most in this matter is that men coming from the South, from Tennessee and from Virginia, indebted for their elevation to the position of members of Congress on this floor in part at least to colored votes, are to be found declaring that colored men do not want the civil-rights bill. They misrepresent that portion of their constituencies. I say to them, in the language of Charles Sumner to a Senator of the United States, "They are not your constituency; they are mine." You misrepresent them and have added insult to the injury you would inflict.

When the gentleman from Tennessee [Mr. BUTLER] said that the colored people did not want civil rights, that portion of his constituency almost at that same moment were, in a State convention called for the purpose, engaged in making a protest against the position assumed by Mr. BROWNLOW, of Tennessee, who had written against the bill.

The convention referred to passed the following resolutions:

Whereas the Congress of the United States, by public authority, have made large donations and endowments to many educational institutions, to citizens of the several States of this Union; and whereas Tennessee has received the fund allowed and provided by this supreme authority of our country, and the colored citizens form a large part of the population of the State, and have received none of the benefits of this liberal provision for public improvement; and whereas there is now a bill before the Congress of the United States conferring on the colored citizens civil rights, and as it is our duty as men to arrange means of instruction for the perfect development of posterity, we call the attention of the Congress of the United States to the fact that the public institutions of Tennessee are defective in point of principle and practice, are anti-republican and proscriptive, and their tendency is to breed discord between citizens and stimulate the spirit of caste and hate: Therefore,

Resolved, That we most respectfully ask the passage of the civil-rights bill as introduced by Hon. Charles Sumner, of Massachusetts, and reported by the Judiciary Committee, containing the provisions of an impartial education afforded to us and our children by the public schools of this country, as the most potent power to develop true republicanism and love of country, good feeling and personal regard mutually.

Resolved, That the institutions endowed by the General Government be so regulated that the colored citizens shall be admitted to them impartially, in proportion to their population, and provision shall be made to carry out the apportionment of this class of citizens; and whereas the common or public schools of the country is the medium through which an education will reach the masses of the citizens, we, as American citizens, demand that we shall enjoy them impartially, that we may encourage protection in a republic where all are equal before the law, and promote a high and useful career for the young upon the enduring basis of a true and consistent republic, which generously showers its blessings upon all alike, regardless of external circumstances or condition.

Resolved, That we will consider the omission of the republican party to enact this measure a baseless surrender of the rights of humanity to our insidious foes, who have contested upon the avenues of civil life every right we enjoy, as they did every right of freedom on the field of battle; and we will do our utmost to stamp upon every demagogue who seeks to betray the privileges of our children to the full enjoyment of impartial and equal privileges in the public schools the brand of the traitor Judas, as deserving politically a traitor's doom, with whom we will never, never join hands nor support, but will regard as our public and private enemy, more terrible to meet than a savage beast, more injurious than any catastrophe that could befall us, or any calamity that could be devised by any wicked unseen power that could reap a carnival of misery; but equal and impartial rights will secure to posterity their just and true relations, order will come from chaos, good will spring up where spite and hate exist, Ethiopia will in this fair country stretch forth her hands to God, peace will prevail, God will bless us, and we will walk hand in hand.

Also the following:

Whereas it has been asserted without authority and unwarrantably that the colored citizens of Tennessee and the South do not want civil rights, with impartial school privileges to all the colored children in the South in the public schools, and all the other privileges demanded and allowed in civil laws: this convention of colored citizens repel indignantly and with contempt the misanthrope who would seek to fasten and fetter with prejudice our children and posterity, and we earnestly invoke the national Congress to pass the civil-rights bill, giving to our children impartial school privileges in every public school, State and national, throughout the United States, and deny to any the privileges of invidious distinctions against our race in any of the institutions of the country; and present our thanks to General BENJAMIN F. BUTLER, of Massachusetts, for his management of the bill in the House of Representatives of the United States, so ably vindicated by the lamented Charles Sumner.

I ask for the passage of the civil-rights bill before we shall adjourn. We ask it as a measure of justice to those people who have been true to the nation and to the party in power. We ask it at the hands of President Grant and the republican party. We ask it too, sir, as a matter of sound public policy in the interest of the republican party and the country. To say that the intelligent colored people are not desiring this measure is, sir, I repeat, adding insult to injury. We ask it; we are not in a position to demand it. We plead for it respectfully, but in no uncertain voice, and confidently look for its early passage.

Mr. Speaker, the condition of affairs in South Carolina, Arkansas, Louisiana, and elsewhere in the South is lugged into these debates here and into the writing of newspaper articles as evidences of the unfitness of the negro for the franchise and for civil rights. Sir, that affairs in some of these States are not in a satisfactory condition is unfortunately true; but, sir, these people have done as well under all the circumstances as any other race similarly situated could have done. They have made mistakes and are alive to the fact, and so far as they are concerned are endeavoring to rectify them. They have been deceived in men whom they elected to fill important positions, as the too-confiding colored people of portions of Tennessee and Virginia and elsewhere have been deceived and are being misrepresented by some of those towards whose election they contributed largely.

As to affairs in my own State, sir, I could wish that there were no grave constitutional obstructions in the way of an investigation into our affairs, as is asked for by a portion of our people. The masses of our people, white and black, would rather invite investigation and a thorough understanding of our affairs than shrink from it. None but those who may be guilty of such practices as are charged against them, and are or may be directly responsible for the misuse of the public moneys and abuses in other directions, could reasonably object. But, sir, because some officials in these States have abused the public confidence and prostituted their office, is violence to be done to a great principle of justice, and a whole race denied therein equal rights in a government like ours? It cannot be, Mr. Speaker. Let justice be done though the heavens fall.

Mr. WOODWORTH. Mr. Speaker, it is probably my duty as a member of the committee reporting the bill called up by my colleague, [Mr. BIERY,] as it is certainly my right under the rules, to add my voice to what has been already so well said this evening in support of it.

The provisions of the substitute recommended by the Committee on Manufactures have been very fully explained by my colleague, who gave many excellent reasons in its favor. The object sought by the committee, to state it as compactly as I am able, is to so enlarge the duties of the Bureau of Statistics as that it shall be required to collect and collate for the use of Congress and the country full information concerning the leading industries of the nation, including the costs and quantities of production, of consumption, and of freights between the different sections of the country; also as to the sources and values of raw material, foreign and domestic, the values of products, the wages paid to workingmen, the cost of food, rents, and clothing, together with such kindred and comparative facts as may be readily obtained from other countries. These statistics are designed to show the operation, the sources of supply, and the places of market of all our great industries, whether of the field, the forest, or the mine, and the tribute which is paid by the people to middle men and

common carriers. This, gentlemen will observe, is in the main a field hitherto unoccupied by the statisticians of this country.

The bill for which this is a substitute proposed the organization of a Department of Manufactures and Mines. I am, sir, in favor, as I have once before taken occasion to say in the presence of the House, of the establishment of a Department of Industry with its Bureaus of agriculture, of manufactures, and of mining.

I am in favor of such a Department, because I would have the producing activities of the country, which, next to freedom, lie at the base of our prosperity as a people and our grandeur as a nation, fostered by Government and represented in its executive councils. The committee, however, have seen fit, moved mainly by ideas of present economy, to give to the House this substitute instead, which, until such a Department can be established, as it one day will be, will subserve a purpose of great utility in the same direction.

Sir, I urge the passage of this substitute for three reasons: First, because it will furnish to the laboring, the producing, and the commercial classes information that will aid them to seize opportunity and to give scope to their enterprise. Second, because it will place before the legislators of the thirty-seven States and before the Congress of the nation facts that will guide with a truer index than the maxims or teachings of the mere theorist in the solution of questions of social and political economy that in the near future cannot be avoided. Third, because it will array facts that will serve to demonstrate the capability of our continent for independence from all the world besides in supplying the wants of our forty millions of to-day and of our hundred millions of to-morrow; and more than this, of sending vast surpluses abroad each year to other peoples, whereby we may one day become rich and great as no nation has been rich and great since the world began.

These reasons differ somewhat from those perhaps no less forcible ones presented by my colleague. I hope that I have been so fortunate as to have distinctly stated them.

It is my purpose, if the House will indulge me with its attention, with the thermometer at 93 in the Hall, to speak of these reasons briefly, but in detail, and to answer some objections that may be urged against the bill, and then to give place to a gentleman, not a member of the committee, but whom I am anxious to have heard upon it. This is the only bill which the Committee on Manufactures has reported at this session, and I shall be glad to have it well reviewed in the debates of the House before the vote is taken pursuant to the notice given by my colleague.

It is scarcely necessary, I apprehend, sir, that I pause to amplify upon the first reason which I give for the passage of this bill, to any considerable length at any rate. To do so would certainly be supererogatory were I speaking to men themselves engaged in industrial pursuits. To them the simple statement of what is proposed would be a postulate of its value. Why, sir, it was at the demand of industry that statistical knowledge was first sought. An Englishman, Sir William Petty, who had been president of the board of trade, for the aid of the commerce and production of the kingdom, near the middle of the last century if I remember correctly, first made statistics a science—the science of figures applied to life. Later the same interest, coupled with that of the solution of certain social problems, caused the organization of the first statistical society at Manchester in 1833, which was soon followed by similar organizations upon the continent. The demands of the same interests led to the four international statistical congresses that have been held; the first in Brussels in 1853, and the last, I think, in London in 1860.

The fact that this branch of knowledge sprang from the demands of the business world, and that it has greatly benefited business in all its branches, is, I think, clearly revealed in the histories of British and continental industries, is, it seems to me, a proof indisputable that my first reason for asking the passage of this bill is well assigned. The whys and the wherefores, as I intimated a moment since, would be at once appreciated by men engaged in the industries of the country, whether as employer or employed. The intelligent farmer or manufacturer would at a glance comprehend how a benefit would accrue to him from a knowledge as to the sources of raw material—the sources of supply and the direction of the best demands which give vigor to their several industries in other sections. The laborer, he who has only his toil to sell in any market, would at once see how his interests would be advanced should Government come to him, and, like an elder brother, point to where work may be had, where its burdens are lighter or its rewards greater.

An inestimable advantage would accrue to all classes from a greater diversification of industries which, I believe, accurate statistical knowledge would tend to promote. In the South, where the old myth "cotton is king" still clings to the people like a religion of the fathers, the exclusive trust should no longer remain in a monarch who biennially abdicates before an army of caterpillars. Other less timid interests should be invited in to save the interregnum. In the West agriculture and manufactures should stand together amid the abundance of nature, and all sections should shake hands through a cheaper means of commerce. To promote this information in the direction proposed will be invaluable.

It was once said that "knowledge is power." Nowhere in the range of human experience is this more true than with the laboring and producing classes. The American manufacturer, the American mechanic, the American agriculturist, the workingmen of this country, and the aggregate of these is nineteen-twentieths of our people, under the beneficence of our Government, with its free schools, and imbued with the spirit that seems born of the very air that races over our mountains and plains, are now the most advanced and enterprising people of the globe. The intelligence they have put into the mowers and reapers, into sewing-machines and other products of American genius, have made these things inimitable by other peoples, and has given to them control of the markets of the world. The indomitable perseverance with which they have pushed forward agricultural and horticultural experiment and development has given to their products the very highest place of excellence.

To aid the achievements of this power, to give scope to its ambition, and to add to the sum total of the advantages it now enjoys, it seems to me due that Government should place within its reach the information contemplated by this bill.

I pass now to the second reason. The proposed statistics are necessary as a basis for the statesmanship of the future.

New conditions require new policies. Statesmanship can have no formula that will do for all times. Rousseau said that "the science of government is merely a science of combinations, of applications, and of exceptions, according to time, place, and circumstances." This is true as to the means; the end, which should ever be the highest happiness of the citizen, neither time, place, nor circumstances can change. From this time forward the American statesman must study the means, through this science of figures as applied to life in the present, not through theories alone which time and change may have plundered of the wisdom they once possessed.

I have, I trust, sir, all due respect for the wisdom and usefulness of the books which assume to teach the philosophy of government. But, sir, unless I mistake, it is one of the misfortunes of this Republic that her legislation is molded too much by the scholarly, old-time theories of political economists, who were not of or for us or our age, and too little by the plain, common-sense deductions from the broad facts of history and of existing conditions. The party politician is the chrysalis from which the legislator emerges into public life, and the legislator is too often only a statesman by brevet—if I may so use the term; and I intend no disrespect to gentlemen here—who rushes for guidance through his brief day more often to the libraries where the logic of dead history lies fossilized into theories made often to support political dogmas, between the covers of London-made books, than to the sources of knowledge of actual, living, home facts. By such guidance their acts are as apt to be wrong as the present is apt to differ from the past, or as conditions here are apt to be dissimilar from conditions in other countries. Write this down a truth, that without knowledge of the living facts of the present there can be no wise statesmanship. The ancient Greeks, although heathens, were at one period the wisest political economists the world has ever had. One of the wisest of their thinkers, Polybius, the historian, said:

> A statesman who is ignorant of the way in which events have originated and who cannot tell from what circumstance they have arisen, may be compared to the physician who fails to make himself acquainted with the disease which he is called to cure. They are both useless and worthless.

I hope that I shall not be misunderstood. I would not, sir, by any means, that the writings of old or foreign political economists should be unstudied. Adam Smith, Mill, Ricardo, and the rest each wrote with a profundity of thought before which we bow our heads in respect. Their deductions are of high consequence, but are dangerous unless read with the memory that they wrote for other times, for other social conditions, and often to bolster up theories that shock our modern American idea of the true object of governments.

The man who is honored by the people with a seat in this Hall, to represent their interest, is dangerous to those who sent him if he studies not the statistics of his own country, or if he refuses to quit the high plane of political speculation upon which these authors have placed him to consult the wants and the views of the agriculturists, the manufacturers, the laborers, the men of business of his district, as to the matters of legislation that concern them. Experience has proven how dangerous such men are, or I have read our history to no purpose. Let me instance a single passage to verify my remark. From 1846 to 1861 a feature of the Adam Smith philosophy shaped our national legislation. From 1861 down to the year of grace in which we live a common-sense, though home-made, philosophy has in general held sway. During the period first named industry languished; prosperity was at a stand still—hard times was rapping with bony knuckles at every door. In the latter period prosperity made gigantic strides forward—activity and abundance were everywhere. What was the cause of this contrast? The seasons came and went with their light and their shadow, their storms and their calms, in both periods alike. The rain and the sunshine, like all that comes from above, were impartial. The earth bore fruits and the mine offered its treasures the same in all these years. What then occasioned this wide difference in our prosperity, which was a part of the experience of every gentleman here, and which you will all say I have stated with feebleness? It was, sir, because in the one period our young industries were made to carry the burden of cheap-labor competition, which crushed them out, and, in the other that burden was removed by a tariff equal to the difference between Old and New World wages. Do gentlemen insist that this later policy is unjust to the consumer,

when it was the wages of this same consumer, directly or indirectly, that made this burden death to our manufactures, and when the sequel has proved that home manufacture cheapens prices?

It was, sir, the seeming wisdom of Smith and Ricardo as against the real wisdom of a Kelley, a Dawes, a Blaine, a Schenck, and a host of such men, whom the fortunes of politics had placed in this Hall. It was this that made the contrast. No thoughtful student of our history will deny it.

This item of our experience ought to teach us somewhat.

Experience, joined with common sense,
To mortals is a providence.

It should bear fruits of practical wisdom to be plucked by us and by those that come after us, until we reach that condition—a state of advanced industries—which those Old World political economists must have had in mind when they wrote their theories.

When the eccentric philosopher who once sat at the desk of the New York Tribune, clothed with a power which a king might envy, for whose memory Americans will ever cherish a veneration, and whose niche in the temple of fame is hewn side by side with that of Benjamin Franklin, and this, too, notwithstanding the differing views entertained of the conspicuous acts of the last year of his useful life—when, I say, this American political economist, who knew more facts of this science than any contemporary, turned the glare of his homely lantern upon these imported theories, in which American students and American readers of semi-American newspapers are indoctrinated, their perniciousness under the situation of our manufacturing and agricultural industries was revealed so plainly that no one but the blinded by self-interest or false education could fail to see it. For the dead level of things, in which population, resource, production, skill, and wealth are pretty evenly distributed among peoples, these theories are undoubtedly best for all. But to a people treading the up-hill of prosperity they are, it seems to me, very unwise. The time may soon come when we should adjust them. That time is not yet.

I voted the other day in opposition to many of my party friends, and with the minority of the House, against restoring the tax on incomes. I did so because I believed that in case an increase of taxation should become necessary to meet deficits in the Treasury more tariff would be preferable. If taxation must come let it come in such shape that it will bring compensation with it in the increased rewards of industry. Were it not for two things I should favor direct taxation upon the wealth of the land, with liberal exemptions for the poorer of our people, as a means of raising revenue. These two things are, first, that a tariff judiciously adjusted builds up home industry; and second, that its burden is voluntary, and so but little felt. This is certainly better than to restore the tax on incomes, which experience has proved to be an unwholesome check upon enterprise, and altogether odious to the people.

My judgment, sir, of a judicious adjustment of the tariff is this: First, a high tariff upon all commodities that are or can be produced here, or of which we produce articles that will in every respect serve the same purpose. Second, a tariff placed at that point where the utmost revenue will be realized upon articles of luxury, fashion, and fancy that are not produced here. Third, place upon the free list all necessaries of life which we do not produce. This would build up all our industries, would increase the rewards of labor, would make the expenditures of the rich pay the expenses of Government, and would give cheap necessaries to our people. This duty should be no respecter of persons or pursuits, and should, in my judgment, be *ad valorem* as far as the honest collection of the revenues will permit.

Sir, the consideration of the influence of the proposed statistics upon the statesmanship of the future has led me, logically enough, to speak of the tariff question. If it were in the line of thought which this bill opens to enter upon a discussion of that question further than to state the effect which I believe these facts would have upon it, as it is not, I would quote the words of Washington in his second annual message, of Jefferson, of Jackson, and of his immortal compeer Henry Clay, and of a host of others of our fathers and statesmen who spoke from the dictates of an observant wisdom in favor of tariff laws. I should likewise attempt to show the reasons, which are to me clear as noonday sunlight, upon which such laws are based. But, sir, the line of my argument does not lie to such a distance in this direction.

Much has come to our ears since the beginning of the session of the general depression of business throughout the country, and much discussion has been had as to the relief demanded by the people and as to the ways and means required by a depleted Treasury. The patient has had too many doctors, who have been so busy in disagreeing that they had no time to unite on a measure of relief. In the language of the Persian proverb, "The mill grinds, but there is no meal." You have, however, with commendable zeal, for which I am sure the country will give you credit, cut down expenditures as never before, and you have framed your tax bill, which a day or two ago passed the House, in some items at least greatly in the interests of prosperity. I instance the restoration of the duty of six dollars a ton on jute-butts, which, should it become law by the concurrence of the Senate and the Executive, will help the farmers of the country by making flax culture once more a source of profit.

You have done this and some other things in the same direction, but you have not done that which would of itself restore from the prostration. Encourage the industries, agricultural and manufacturing, by a tariff adjusted upon the principles of which I spoke a moment ago; give the people a sound, sufficient, uniform currency, secured by the wealth of the nation and emancipated from the control of Shylocks and monopolies, a currency which will possess both elasticity of volume, and a permanency of value, upon which the people may rely from year to year, keeping withal faith wherever pledged and making no pledges to be broken. Do this, and you will have started the nation and the people out upon the high road to a prosperity which, as surely as the years abide, will pay off in good time the national debt, will make our currency as good as gold for all the purposes of a medium of exchange and convertible into it dollar for dollar, and that will lift the nation and the people up into the mountain-heights of a grand prosperity, above the cloud-level of panic and reverse, from which even the next generation may look down exultingly on the wisdom that has achieved so much. We have already moved toward this result in the degree that we have applied these means. Is there in what I say aught that does not appeal to our common sense for its evidence? Is there aught Utopian in it? Is it not the plain law of cause and effect, that with the policies I have indicated industries will multiply, and that with increased and still-increasing industries our exports will climb beyond our imports, and thus keep a constant and increasing stream of foreign wealth flowing to us, the accumulations of which must in time accomplish all I have described? The lake with an inlet larger than its outlet must fill. The man whose income exceeds his expenditures must grow rich. The nation which sells more than it buys must reach affluence and its people must prosper. This is a law that is indisputable and inflexible.

The policies I have indicated as productive of the results described must have root deep down in the knowledge of facts as they exist here and now, and not in the formulas of the writers. It is to lay the foundations, broad, wide, and deep, for the wisest and best statesmanship, whether I am right in believing that it will adopt these policies or not, that I urge the gathering of the statistics contemplated by this bill. As long as the American legislator shall continue to grope in the twilight of imperfect information concerning the vital interests of his people, guided only by Old World lights that glimmer to us with uncertain rays from across the waters, expect no successful statesmanship. I do not mean to imply that we have not through this Bureau and the decennial census reports much, very much, statistical knowledge at hand. That would be untrue. What I do mean to say is that this statistical knowledge is altogether incomplete for the purposes indicated without the facts contemplated by this bill.

Mr. Speaker, there is another question that is nearly allied to, nay that is a part and parcel of those of which I have been speaking, in connection with which these statistics will be of the highest value. It is the labor question.

"Coming events cast their shadows before," and from down the pathway which we must tread as we go forward into the future the shadow of this question falls upon us to-day. We shall reach the substance of that shadow while this generation is yet alive. We are almost upon it now. It cannot be avoided. Like Banquo's ghost, it will not down upon the bidding of the Macbeths, to whom the appearance is an accuser. The granger organizations, the labor guilds, the general attention which this subject is receiving in all sections, prove that this question must be met. It is vastly important that we prepare to meet it with the wisdom to which these facts will contribute.

What, sir, is this question the foot-falls of whose near approach echoes in the corridors of to-morrow? It is not as to the division of the profits arising from production between the two partners, capital and labor, as some one has defined it. This is not the labor question in any sense in which it can address itself directly to the statesman. The reason is obvious. By the genius of our free institutions every man is at liberty to act his pleasure with his own, whether it be his money, his property, or his labor, provided that by so doing he trespass not upon the rights of others. This is a principle of right upon which no agrarianism must ever intrude. There is no just man in the land that does not claim this. The law cannot make bargains among men without becoming a tyranny. What, then, is the labor question as it addresses itself to government? It is this: What policies of legislation will serve to check the aggressions of combined wealth upon the prosperity of the masses, to increase the power and rewards of industry, and to improve the condition of the workingmen of the country? This question may be subsidiary to that of the division of profits, but it is only so by consequences and not by interference.

Government can and ought to assert its prerogative whenever capital, combined or uncombined, assumes to monopolize that which of right belongs to the people, and through this to levy unjust tribute upon them. Touching this I fully expressed myself in the course of the debate upon the transportation question. Government can and ought, by furnishing free educational advantages and by, if needs be, compulsory attendance upon them, by laws for the suppression of intemperance and the promotion of sobriety and thrift, by forbidding the cruelty of chaining young children to the wheel of toil by which mind and body are dwarfed alike, by the example of requiring only reasonable hours of labor, by such a system of tariffs and currency as I have indicated—by giving the fullest effect to existing laws of primogeniture—by guarding well against the insidious building up of class based upon wealth—by forbidding the silly apings of Old

World aristocratic pomp among government officials so at war with democratic ideas—by these means, or some of them at least, government may, in my judgment, promote the interests of workingmen, and help to elevate labor up to the high plane of independent manhood, where it belongs.

Abraham Lincoln, in his first annual message to Congress, used language upon this subject luminous and truthful, as were all his utterances. He said:

Labor is prior to and independent of capital. Capital is only the fruit of labor, and could never have existed if labor had not first existed. Labor is the superior of capital and deserves much the higher consideration. Capital has its rights which are worthy of protection as any other rights, nor is it denied that there is and probably will be a relation between capital and labor producing mutual benefits.

The central truth of this utterance is that labor deserves the higher consideration, but that both have rights which should not be ignored. Between the two, I assert, there are no natural antagonisms. Whatever exist are purely artificial and I believe that the policies of which I have spoken will tend to wipe them away. Cheap unintelligent labor is the curse of both employer and employed. Well-paid intelligent labor will be to the advantage of each. I believe that the policies I have mentioned will be to the advantage of each, but if not, I still insist that they are right, for I know that they are in the interests of God's millions who are born to toil. I speak only of capital when invested in some one of the industries. Capital not so invested, when it ministers only to idleness and luxury, is a thing without rights except to be taxed and protected against crime.

The chief and altogether most beneficial result of these policies will be to rapidly unite capital and labor in the same person, as in the case of the American farmer and many mechanics, which, of course, solves at once all question as to the division of profits. We have no *proletariat* here in the offensive sense in which this foreign term is used in other countries, a term imported to us side by side with theories of free trade. We have, however, a large population of workingmen, and it should be our study, it should be the object of our laws, to elevate them into the only order of nobility which is or ought to be recognized here, the nobility of educated, independent labor. There is no higher order of nobility than this. The stars and the ribbons that bedeck the useless drones of the Old World are less marks of honorable distinction than the toil-stains of the workingman whose intelligence and thrift have made him master of his wages. Such is the insignia of rank with which we should seek to bedeck the workingmen of this country. Let Government stretch out its hand to workingmen, build up their interests, lighten their burdens, until they shall know that God uttered a benediction and not a curse when he said to the first of human kind, "In the sweat of thy face shalt thou eat bread, till thou return unto the ground."

Sir, who are the workingmen of America of whom I thus speak? They are nineteen-twentieths of our people. They are the bone, the sinew, the brain of the land, for in this term I include every man who avoids not this benediction, whether he tills the soil, or hammers in the shop, or takes his little lamp and goes down from the light of day to encounter the dangers of the mine; whether he plies the busy hand among looms and spindles, or swings strong arms amid giant engines and ponderous machines. I include all, for all make up the body of American workingmen. What has this body done to merit the honor of being the only nobility of the land? From its brain and genius and energy and that of its foreign kindred have sprung all the grand achievements of modern times. It has given the hundreds of labor-saving machines that clank in the mills or rattle in the homes of the people, robbing toil of its pain. It has gone down into the earth and dragged forth its riches. It has dived into the ocean and brought up its treasures. It has harnessed with steel and brass the elements, fire and water, and is driving them with the speed of the winds up and down the continent. It has stolen the tongue of the thunder-cloud and made it to speak the thoughts of men from city to city and to flash the greetings of continents underneath thousands of miles of stormy sea. It has thus stood in the midst of nature's profoundest mysteries, grappled with her giant difficulties, and caught her most subtile essence and branded it with the badge of servitude to man.

I make no mistake, I think, in saying that the class which has done all this are the true nobility of the human family. This class—and class is a word so hateful to me that I only speak it on compulsion—these people, I will say, are the regular army in the march of progress. The ear that listens can hear the music of its advance. The eye that looks up can see its banners waving against the sky. Its music is the tinkling of anvils, the whir of spindles, the boom of engines with low, sweet undertones of—

Herdboy's evening pipe and hum of housing bee.

Its pennons are the graceful wreaths of smoke that festoon the sky in beauty above a thousand workshops. Its flags are the red banners of flame that wave over a hundred furnaces. Its generals are the Morses and Fultons of to-day, and its captains are named by hundreds upon the records of your Patent Office. Such, sir, is the army, the rank and file of which are the workingmen of America. It is the body-guard of our civilization. All others—those who toil not with hand or brain—are the camp-followers, the suttlers, the hangers-on, the *impedimenta*. I utter, sir, no mere figure of speech, but give words, though in mataphor, to a substantial truth that deserves better rhetoric.

Shall our policies of government hereafter serve the *impedimenta* or the grand army of labor that is driving poverty and want before it, and that is pushing our prosperity up into the sublimest heights of success? This is a question, as I intimated a few moments ago that is to-day moving in the hearts of men all over the land. From the dark pineries of the North to the orange groves of the South, from the rugged hills of New England to the Golden Gate, this question now falls from lips in tones that speak a purpose as never before. They demand that the interest of the tiller and toiler should be the peculiar care of government. Their demand cannot but be significant of what is to be, for they wield a—

Weapon that comes down as still
As snow-flakes fall upon the sod;
But executes the freeman's will,
As lightning doth the will of God.

I have used the term, sir, American workingmen. I beg not to be understood as using it in any other sense than to designate the working people in this country as distinguished from the laboring people in other countries. Whether we are of this country by the accident of birth or the incident of naturalization we are equally Americans, and our ideas and aspirations should be, as our destiny is, the same. I hope not to be understood as using the term in a sense that hints of a distinction where none exists.

To follow the policies I have indicated the statesman's best help will be the facts proposed by this bill to be gathered by the Bureau of Statistics. Such facts will also be of much advantage in the settlement of labor strikes that occur and reoccur at industrial centers, by furnishing facts to guide in the arbitrament of the differences between employer and employed. All the labor strikes of which I have had knowledge have arisen from either an actual or alleged change in the price of the commodity produced or in some other condition affecting profits.

How valuable, then, to both employer and workman, each of whom are invariably sufferers from strikes, to have at hand reliable data from which to convince or compromise. The facts thus furnished would not of course be sufficient in themselves, but in many cases would aid in the settlement of these damaging difficulties.

Trades-unions have existed since the time of Solomon in Judea, of Thesus in Greece, and of Numa in Italy. Combinations of capital are equally as old. One created the other. These things prove that the conflict has been going on since the earliest times of which history speaks, but I trust that the broadening influence of modern ideas and the wide fields of industry opened in this country will serve soon to end it among our people at least.

As I said a few moments ago, I do not believe that there is any natural antagonism between them, and whatever will tend to destroy, whatever artificial enmity exists, will confer a blessing indeed upon all the people. The governmental policies which I have indicated I believe will do this, and necessary to such policies are the facts which we would have the Bureau of Statistics array for the use of Congress and the country.

I should now, sir, not to depart from the plan which I proposed for myself in the outstart, speak of the third reason which leads me to urge this bill. Touching this I must be brief, as I should otherwise trespass too much upon the patience of the House.

The members of the House who were present and heard the masterly and truly eloquent speech delivered a few days ago by the gentleman from Pennsylvania [Mr. KELLEY] in support of the centennial appropriation bill, who listened to the rhetorical phrase in which he presented the picture of our boundless resources, of the illimitable wealth with which nature has endowed her favorite creation, this continent, could certainly thereafter have no doubt as to our capacity for absolute independence from all the world in everything which our people consume. So vividly did the gentleman portray the immense resources of the country as they will appear to the astonished descendants of Cornwallis and La Fayette in centennial hall in 1876, that the thousand leagues of fruitful lands covered with growing fruits and cereals; the rich mines of iron and of coal, of copper and of gold, of cinnabar and of silver; the forests of pine trees, among which the northern winds harp their tunes as they did before the era of Columbus; and the rich orange groves that scatter their white blossoms over the bosoms of southern streams; the sixty-two thousand miles of railway that net-work the continent, and the hundred navigable rivers that beribbon the land with silver—all these things, I say, were so vividly portrayed by the eloquence of the distinguished Pennsylvanian that I almost wish that I had the right to make his words my own, or had time to quote them here.

Sir, to the figures of our greatness, our resource, and our progress in a hundred years, already gathered by the statistician, many of which were forcibly presented by my colleague [Mr. BIERY] in his remarks upon this bill, add those which we now propose that the Bureau shall gather, and you will have exhibited in numerals that which the gentleman so finely pictured in words.

The gentleman urged Congress to appropriate $3,000,000 to celebrate the hundredth anniversary of our political independence as a nation. We ask that Congress shall expend $10,000 a year to teach us how we may gain our independence in material things as a people. The first was achieved through the armed patriotism of the men of '76. Now, when a hundred years have nearly gone by on the wings of the restless seasons, let us prepare to accomplish a second independence by

the unarmed patriotism of the men of to-day. It would be the grandest poetry in history to have it written that the fact of our second independence was read in Philadelphia on the 4th day of July, 1876, from our commercial statistics. England took from the Colonies a few thousand pounds sterling in unjust taxation, and the liberty-loving men of that day rebelled. England now takes from us by the cunning of her statesmen and the fatuity of our own many million dollars annually as a tax upon our industries. Let the men of a hundred years after the Revolution, invoking not the arts of war but those of an energetic peace, again rebel against English exactions. The army of American workingmen which I mentioned a few moments ago will achieve all we ask if the opportunity is but given to them.

We have political independence which no doubt will be fittingly commemorated in 1876. Give us now commercial and industrial independence and posterity will celebrate both events with equal rejoicing.

Sir, what possible objection, can there be to this bill? The only objection that I have heard urged against it or that I conceive can be made is that it will swell somewhat our yearly expenditures, and that it will institute an espionage over our industries that will be odious to the people.

It cannot by the limitations of the bill add over $10,000 a year to our expenditures. Can we not afford this to accomplish the great good that will result? Why, sir, without the evidence of a misgiving you appropriate millions for river and harbor improvements to aid the commercial enterprise of the country. You expend vast sums to appease the wild Indians of the West, to erect forts and to build lighthouses. All this perhaps is well, if the money be honestly expended, but it surprises me, when a comparatively insignificant sum is asked for a purpose that will result in more good to every man and woman in the land than all your coast line defenses—than half your river and harbor improvements—that will result in as much humanity as your Indian gifts or your marine benefits, that objection upon the ground of expense is heard. I believe in economy as decidedly as any man here, but let it begin where the least benefit is bestowed.

As to the other objection, I beg that it be remembered that the chief of the Bureau can resort to nothing compulsory. All information must be voluntary. How, then, can it be odious? Those who make this objection are mistaken. Those engaged in industrial pursuits will with the clear, frank intelligence that is peculiarly American give every possible aid to the Bureau. They will do so the less reluctantly because they will not be slow to see the advantages which they may reap from the statistics proposed.

In the district, sir, which I have the honor to represent in this Congress—a district whose mines of coal and whose manufactories of iron are known throughout the United States, whose products of the farm and the shop are rarely equaled, a section which stands prominent among the best in productive industry—this legislation will be hailed with satisfaction; not so much because of the immediate benefits to flow from it as because it will be an indication that the policies and energies of government are hereafter to be directed to the promotion of growth and prosperity in material things, and in the interests not of the few but of the many. As in my district, so it will be elsewhere.

Mr. Speaker, I now yield whatever of time I may have remaining to the gentleman from Wisconsin, [Mr. WILLIAMS.]

Mr. WILLIAMS, of Wisconsin. Mr. Sbeaker, the question of cheap transportation discussed in connection with this bill has become one of far wider significance than that of the mere pecuniary interest involved. The evils which it seeks to remedy affect not only the material interests of the country, but menace the very form of civil government itself. It is with these questions and others like these that the Forty-third Congress is called upon to deal, charged with the injunction that if it cannot deal with them successfully another will be chosen in its stead which can.

The plain truth is, Mr. Speaker, that this Congress convened under a cloud of distrust and a threat of vengeance; and while a large portion of the people most earnestly hope and pray that it may succeed in its work, another portion are just as willing that it may fail.

While the last decade has been one of political, commercial, and social revolution, the events of the last few years have served to set free the elements of distrust, chronic discontent, and restless ambition. The people have stood dumbfounded and amazed in the presence of results, the causes of which they themselves helped to inaugurate and maintain. They have recognized the *principle* of danger while constantly ignoring the *fact* of its existence, and they have set up principalities and powers in their midst, which, if left unchecked, will sap the foundations of free government and usurp the functions of civil control. For I take it, that the dangers from these combinations of corporate power, is not more that they gather to themselves the material resources of the country, than that they break the spirit of the people and destroy the independence of the individual, thereby trampling into dust the very germ of republican government. Any system of dealing with human affairs, which wounds the pride or humbles the manhood of the citizen without cause, necessarily strikes at the vital life of republics.

Yet who does not know that the American citizen in humble circumstances enters the presence of these railroad magnates throned in their great central offices, with more fear and trembling than he approaches the President of the United States. And well he may, for launched upon their theory of action, they have tenfold more power to oppress him, than any President lined in by constitutional law.

But, sir, it is not with the weak alone that these men have to deal. The standing boast put forth in their interest for years has been, that they can make and unmake governors, seat and unseat Senators, and, if need be, drive their express trains at high rates of speed, through Legislatures, courts, and Congresses.

Ah! Mr. Speaker, it was a sad day when such a boast could be made in a free Republic. But it was sadder still, when the people had come to believe, that it was the simple God's truth of the whole matter.

What was the natural culmination of a power thus unchecked? Let my own State of Wisconsin, prostrate to-day, under a corporate edict, make answer. But do you suppose she will remain there quiet? And do you think that self-government can be maintained if she does? Have we not yet learned that no party, no corporation, no interest in this country, is mighty enough to stand above the law and defy it? Have we forgotten that the most gigantic, determined, and deadly monopoly of earth, flaunted the flag of rebellion and defied the authority of law, only to be trampled out in fire and blood?

Mr. Speaker, this local rebellion will not go out in blood, nor fire, nor in the shock of battle, nor amid the roar of cannon, but it will subside and vanish, in the presence of an aroused public sentiment, and the silent majesty of vindicated law.

I have already said enough I think to indicate to you of the East, that whatever you may think of this so-called "farmers, movement," we of the West, and I am sure they of the South, regard it of far more significance than the mere cost of transporting a bushel of grain from the interior to the sea-board.

Sir, I come not to this House accredited of the grangers; I bear about me no letters of instruction or request from them. I know nothing of their signs, their grips, or pass-words, and nothing of their forms, ceremonies, or purposes, except as the general public know them. Many of these forms and ceremonies may prove ephemeral. The secret element of their order can but be pernicious and destructive if allowed to mingle in political questions. Extravagant ideas and sanguine expectations, have in some cases beset this as they beset all new movements, and are doomed to disappointment.

But speaking now of my own immediate locality, I know these men, know the wrongs of which they complain, the forbearance with which they have suffered, the feeling which now actuates them, and the interest around which they gather. And knowing these things, and remembering what these men have done for the West, how they have reclaimed her forests and beautified her fields, and set up on the border of her streams and in the bosom of her prairies the best realization of the American home; how they carried into that country not only the "seed-corn," as my friend from Saint Louis [Mr. STANARD] has it, but all the blessings of civilization and domestic peace, long before the snort of the locomotive awoke an echo west of Lake Michigan, and when by misrepresentation and fraud they have been induced to bond their towns, and mortgage their farms, to build the very railroads which now seek to rule them! And when I have seen some of them driven out from the very homes which their own hands had fashioned, and forced in their old age to seek an abiding place elsewhere. I am resolved, that while I have a vote or voice on this floor, however faint or feeble, that no cry of "granger" and no taunt of "demagogue" shall deter me from presenting the claims of these men, as I think their merits deserve.

It must be confessed, Mr. Speaker, that the agricultural and industrial interests, aided by the public press, were the first to call a halt in the extravagance and corruption which have beset this country. So I predict that these same interests, will yet knock at the doors of this Capitol, in a way that they will not only be heard, but their reasonable wants and requests will be respected.

Their interests will no longer be discussed, as too often during this session, at odd spells, in by-places, but they will be both heard and heeded in the forefront of discussion on this floor.

Since coming to Washington I have heard "grangers" inquired about, as you would inquire about a newly discovered race of men in Alaska, or Central Africa, but too often, in a tone of suppressed ridicule or ill-concealed contempt. Sometimes in genial phrase, they have been styled the "small grangers" of the West, while at others, with less geniality of manner, it has been asked "What have these farmers got to do about it?"

Well, sir, taken individually, these farmers may not have very much "to do about it." They may not be capitalists, they may not have amassed large fortunes. Some of them may be poor; but whatever they have, whether it be much or whether it be little, it is the fruit of their own toil and they naturally desire to keep it. But when you inquire of them collectively, "What have you got to do about it?" they refer you to the recent report of the Senate Special Committee upon Transportation, which shows that 90 per cent. of all the freight that goes eastward over the northern lakes is breadstuffs, while 50 per cent. of the freight going eastward from Milwaukee and Chicago by rail is grain, and 45 per cent. is animals and their products; and pointing you to this 90 per cent. of lake carriage and 95 per cent. freight by rail, both the immediate and direct products of the farm, they tell you that is what they have "got to do about it."

As the present state of this question grew out of the general condition of things rather than from personal spite or malice, so it is only by dealing with these general conditions that we may hope to reach

safe and satisfactory results. That railway monopolies the world over are becoming unbearable is apparent; that the spirit which pervades and controls them is grasping and selfish, is true; not because the men engaged in them are better or worse than other men under like conditions, but because railway monopolies are organized *power;* and organized power unchecked is *despotism*. The people have created these powers; can they now control them? If they cannot, then here is a power paramount which by its own definition must rule.

What is this power, and what are its resources? There are seventy-four thousand miles of railroads in the United States; estimated, as railroad men now estimate, at $40,000 per mile, these roadways are worth $2,960,000,000. If you will look at Poor's Railroad Manual for 1873-'74 you will find that the cost of "equipments," &c., of the railroads in the United States, exclusive of the Central and Union Pacific roads, amounts to over $3,000,000,000, thereby confirming the recent rumored saying of one of the leading railroad men of this country, that the railroad interest of the United States, wields an aggregate capital of over $6,000,000,000—three times larger than the national debt, and nearly twice as large as the entire wealth of this country in 1840. Sir, we boast of American prestige in material things. We never tire of telling of the extent of our territory, the variety of its climate, soil, and production, the length of its rivers, the breadth of its lakes, the reach of its sea-coast, and the marvelous development of its resources.

We build Chicagoes in twenty years, and when they are swept away in a night, we replace them more beautiful than before, in a twelvemonth. Our industrial enterprises cover the land, while our merchant ship bear the flag of the Republic into the most distant seas. Yet here is a power set up in our midst, which in twenty years, has gathered to itself more wealth, than this entire country possessed after three hundred years from the time of its discovery. "If they do these things in the green tree, what shall be done in the dry?" If Rome stood a thousand years, what have statesmen to say about these encroachments, at the end of the first century of our nation's life? But, sir, it is not in material things alone that these dangers tower around us. This power wields an army of officials, employés, and retainers of at least two hundred thousand men; yet it stops not here. It commands the best brains in the country. The keenest intellects in the professional and business walks of life are brought within its influence and control. Shippers and merchants, men of influence in their respective towns and villages, by means of special rates or special discriminations, are awed into silence or made to do its bidding.

We read in the public journals that switches have been locked, station-houses closed, and trains run at high rates of speed through a city on the Hudson, because the will of an autocrat was not heeded in collateral matters. And I have been informed that suits in equity, involving the rights of entire towns, have been compelled to be discontinued, under the threat that station-houses should be removed and railroad accommodations withdrawn. Finally, sir, as if to cap the climax, a sovereign State is deliberately told that if she shall dare to assert her authority under the forms of law, not a car shall run in all her borders.

Such is the nature, purpose, and resources of the power which confronts us. How shall it be controlled? Some say we cannot control it at all. But the answer to this is, we must control it, or be controlled by it. As I have already said, this is not a question of personal feeling, bitterness, or spite, but a question of positive forces and logical results.

Competition between intersecting or parallel roads, so long relied upon as a remedy, is now conceded on all sides to be a failure. The report of this Special Committee of the Senate on Cheap Transportation tells us that large sections of country are rapidly passing under the control of this line, or that, by common consent, Like great barons, these railway princes are parceling out the territory of the United States into separate dominions. No private enterprise can compete with them, and their own strifes at competing points only serve to double or triple rates at non-competing ones. What then is the proper remedy? Four have been proposed—control by Congress; control by State authority; construction of continental roads; and the opening up of water-ways by the Government. Which is the proper remedy? In my judgment all of them are not only proper, but indispensable to practical results. If you improve the Mississippi River and the route by the northern lakes, how will you compel the carriage of freights, at reasonable rates, from non-competing points to these water lines? Will you do it by State authority? State authority only operates within State lines. Will you do it by the authority of Congress? Congress can only operate across State lines, and not exclusively within a State at all. Will you invoke the aid of both of these powers? Then you are told that neither Congress nor the State Legislatures have any power to regulate rates upon railroads. This question of power has been so fully discussed, and the authorities sustaining it have been so often cited and recited, during the present session, that I shall content myself with stating the several conclusions which I think they sustain, namely:

First. That under that clause of the Constitution empowering Congress "to regulate commerce with foreign nations and among the several States" its power to regulate commerce "among the several States" is coextensive with its power to regulate it "with foreign nations."

Second. That within the sphere of its exercise this power is plenary and absolute.

Third. That the "commerce" to be regulated here is the commerce carried on across State lines, and that the power to regulate, depends not upon any changed or new definition of the word "commerce," but upon the place *where*, rather than the mode or *means* by which, the same is carried on.

Fourth. That to "regulate" is to "prescribe a rule" for the government, prosecution, and control of commerce.

Fifth. That such "rule" relates not only generally to the subject-matter, but specifically to the views and instruments by which it is carrried on; to the men engaged, the vehicles employed, the route prescribed, and to whatever pertains to the safety of passengers, the security of goods, and the protection of the public, from abuse and extortion.

It is the voluntary entering upon the business of commerce, rather than the particular mode of conducting it, which subjects a party to this regulation or control. If a man, a party, or corporation desires to avoid such rules and regulations as pertain to interstate commerce, all he or it has to do, is to refrain from engaging in that kind of business.

But it is said that Congress has never attempted to regulate prices under this rule. Very true, because the necessity for so doing has never before arisen. But to argue therefore that it cannot do it in a case clearly within the scope of its power, is like saying that the authority of a board of health, shall be confined to the kind of diseases already known; but that if a new form of epidemic shall appear, more sweeping than all before, it shall have no power to deal with that. You might as well determine the jurisdiction of the General Government over an individual, by the kind of a vessel in which he crossed the ocean, or the particular port at which he entered the country, as to determine the regulations of commerce, by the kind of vehicles in which it is carried on. Commerce no more changes its nature by shifting from a boat to a rail-car than a man does when he performs the same thing.

To invite men to engage in interstate commerce, help them to establish monopolies, and then exempt them from all regulation and control, is to invite the very state of things which is already upon us with its terrible complications, its crushing weight.

But if the General Government, being a government of delegated powers, may impose these regulations upon interstate commerce, can a State, having original powers, regulate commerce carried on by railroads within its own boundaries, especially when in its organic acts it has reserved the right to do so, *i. e.*, the right to "alter or repeal" all charters granted to corporations?

As the present discussion of this question is more particularly confined to my own State, I shall only detain the House long enough to present its general conditions.

If Wisconsin has not reserved this right, she certainly intended to do so, and supposed she had. But eminent counsel tell her, that she only grants franchises to corporate bodies to enable them to acquire lands and property, with which to serve the public, and that so soon as such property is acquired, upon the sole ground that it is wanted for the public use, it nevertheless, vests at once in them as private property, subject only to the condition, that they shall serve the public with it, but upon their own terms and conditions, and that whenever the State shall become dissatisfied with their mode of service, it has only to repeal their charter, leaving them in full ownership and control of the property thus acquired, and itself shorn of all advantages accruing from the joint undertaking. In other words, the State may select out certain individuals from all others, clothe them with corporate powers, secure to them certain property for the public use, compel other citizens to yield it up to them for that purpose though they tear down their houses to do it, prescribe the route, grant them a monopoly of the carrying trade over it, encourage and empower its citizens to bond their towns and mortgage their farms to push the enterprise to completion, and then, when all this has been done, and the State has nurtured her foster-child for twenty years or more, if she shall be dissatisfied, she may repeal the charter, lose all herself or citizens have invested, go back to stage-coaches and wagons, or allow the creature of her creat on to serve the public as it sees fit. And this we are told is the right and the only right which was so jealously guarded in the constitution of Wisconsin. That if there was any question of good faith or public trust involved, it was the State that trusted the corporation and not the corporation the State. We are further assured that a reduction of passenger-fare from four to three cents per mile and a corresponding reduction on freight is "confiscation of private property without just compensation," but that the raising of rates at a single bound from 4 to 10 per cent., thereby wiping out the profits of the farmer on his annual crop is not confiscation. That under this pretense of "public use" private property may virtually be condemned for private use; a thing which no sovereign State under heaven could do, but which its child, the corporation, may do with impunity. Mr. Speaker,

> Upon what meat doth this our Cæsar feed,
> That he is grown so great?

The converse of these propositions and the cause of the people of Wisconsin, may well rest in the soundness of judicial decision cited in their behalf by her ablest lawyers. Add to these powers the police

power of the State, by which, while she cannot say that hacks and public conveyances shall run, yet if they do run, what rates of fare they shall charge, and her power to regulate rates and charges would seem to be ample.

Passing now from these powers of the State and national governments to their practical application, we are told the matter is so complicated and the conditions so variable that nobody but practical railroad men can prepare tariff rates which will be reasonable. Why not? Because, it is said, the "cost of the road," the "grades and curves," the "character of the goods" transported, the "amount of business," and whether "uniform or fluctuating," "climatic influences," "obstructions from ice or snow," the amount of freight each way, and whether "compact or bulky," the "price of labor," the "amount of dead weight," "length of haul," &c., present a problem the difficulties of which are but slightly understood. Yet practical railroad men do master it with all its complications. Why should not others be able to do so upon like data? And why should not such data be forthcoming under the provisions of law? Take a given line of road with facts and figures carefully prepared, and why should the problem be more difficult to solve, than that which "Old Probabilities" solves every day of his life?

It is further said that England, France, and Belgium have tried the experiment of rates and governmental interference, and failed. Yet while England, with her thirty thousand men controlling all the land in the kingdom, naturally tended to monopolies, and France directly encouraged combinations rather than competition, Belgium measureably succeeded.

The following table, furnished the special committee of the Senate, shows that a schedule of through rates can be prepared, and in that country did prove satisfactory. It shows the charge per ton per mile in 1868, including terminals, for fourth-class goods in Belgium:

	Cents.
15 miles	2.54
31 miles	1.86
46 miles	1.66
62 miles	1.38
77 miles	1.18
93 miles	1.02
108 miles	.92
124 miles	.86
139 miles	.80
155 miles	.74

Mr. William M. Grosvenor, of Saint Louis, has prepared a table of rates upon which he comments as follows:

The regularity of decrease in rate charged corresponds with a general law governing all railway service, namely, cost of loading and unloading, and fixed expenses being the same, whether the trip is long or short; cost of transportation per ton per mile regularly decreases as distance increases, being cost of haulage plus fixed cost, divided by the number of miles. Thus, if cost of loading and unloading be thirty-three cents, and other items of fixed cost twenty-seven cents per ton, the actual cost of haulage (maintenance of track, repairs, &c., included) being eighty-three hundredths of one cent per ton per mile, the cost for different distances will be eighty-three plus sixty cents divided by distance, thus:

Miles.	Haulage.	Fixed.	Total.
10	83	6.00	6.83
20	83	3.00	3.83
30	83	2.00	2.83
40	83	1.50	2.33
50	83	1.20	2.03
60	83	1.00	1.83
80	83	.75	1.58
100	83	.60	1.43
150	83	.40	1.23
200	83	.30	1.13
300	83	.20	1.03
400	83	.15	.98
500	83	.12	.95
1,000	83	.06	.89

But it is said that the details of a bill to regulate rates would be so multifarious that Congress could never master them. How is it with other bills abounding in details, the tariff bill, for instance, enumerating nearly every article known to commerce; or the appropriation or revenue bills? What proportion of the members of this House, called upon suddenly, could arise, amid the confusion always prevailing here, and give any intelligible account of their details? Take the late revisions of the Federal statutes, the work virtually performed by less than a dozen men and touching the minutest interests of every man, woman, and child in the Republic; though passed and sanctioned by the House, how many members outside of a limited few know anything about its details even now? It was a tremendous power to intrust to a dozen men. Supposing we had stood back aghast, and said "It will never do to intrust such powers to so few men," how could the revision ever have been made? Yet if commissions are appointed to collect data and prepare schedule rates of railway charges for the use of Congress, it is said railroad men will corrupt and own them. Only last week the New York Tribune said:

If the companies carry their point in the present case, the Illinois railroad law will collapse like the great transatlantic balloon. If they are beaten in the courts they will *put their money into politics, and make Legislatures, commissions, governors, and judges to suit themselves.*

Sir, is this true? Is it a fact that there are no honest men left in America? None but what can be corrupted and bought? That we cannot perform the ordinary functions of government because no men can be found fit to be trusted? And is this the doctrine which we will teach our young men in schools and colleges, on farms and in workshops?

How can we legislate at all if these things be true? How could we ever accept the details of a general tariff bill upon the assumption that the committee who prepared it, might have been corrupted by the great merchants, importers, or iron-men of the country? Yet men stand back half conceding that this railroad blight has spread so far that no man is free from its taint, and at the same time argue that it should be left unmolested. We may assume the former, and we may act upon it. We may abandon all remedies as impossible, and through love of ease or dread of opposition, tamely submit. But there are those to come after us, younger than we are, who will take up this work where we shall lay it down, and who will teach us that there is faith to be had in human nature still.

While I believe that the right of control of railroads by Congress and the State should be jealously guarded, yet practically I think it will be used mostly for auxiliary purposes, upon local lines, and to compel reasonable connection with governmental routes.

Double-track railroads and water-routes, either one or both, controlled by the Government, must be the great regulators of through rates and fares in this country. It is here where we meet with great differences of opinion, and grave doubts may well arise in the mind of any man who reflects upon the subject.

A double-track road, constructed and owned by the Government, upon which individuals and transportation companies may place their engines and cars, under proper rules and regulations, seems the most feasible plan.

I do not forget that this plan was adopted in England and pronounced a failure as early as 1840. But in that case there was this difference: the railroads were owned by the companies instead of the government, and though laws were enacted regulating the running of trains, they were evaded at every point. But with roadways owned and policed by the Government, all regulations could be strictly enforced.

The joint ownership of the roads by the Government and an incorporated company, or the granting of subsidies for its construction, under proper guards and guarantees, is strongly urged by many, but merits the most thorough and cautious consideration.

The attempt to own and operate a railroad by the Government, and to employ the force necessary to manage its vast and varied business, will swamp itself by its own complications. The cost of building a double-track steel road from New York City to Council Bluffs, as estimated by Mr. W. C. Kibbe, of the Continental Railroad Company, and submitted to the committees of both Houses of Congress, is $225,000,000. This is a large sum of money; but when we remember that Mr. Rufus Hatch, upon what seemed to be reliable data, showed, a few years since, that there was $135,225,670 of watered stock in one through line from New York to Chicago, upon which the people paid a dividend of 8 per cent., amounting to $6,211,725 annually, and which watering equaled $79,000 per mile for the whole distance from New York to Chicago, and which dividends equaled an annual tax levied upon the people amounting to $6,325 per mile, we cease to be staggered by large sums connected with the building or operating of railroads, especially when competent judges tell us from actual calculations that the entire material stock of railroads in the United States amounts to $1,000,000,000. Yet, in the face of these figures, we hear talk about confiscation and bad faith shown to railroad companies on the part of the public.

Mr. Kibbe estimates that upon such a double-track road 1,000 trains of 30 cars each could be constantly moving, and after a careful estimate of running expenses, down to the cost of running each train per mile per day, and allowing for labor, material, fixed expenses, interest on investment, &c., that, at the rate of 7½ mills per ton per mile upon 18,180,000 tons of freight, this being its annual capacity, there would be an annual surplus of $33,000,000.

The Senate special committee report that:

The average charge for the transportation of wheat from the Mississippi River to New York, by rail, for the last five years, is $16 50 per ton, equal to 15.2 mills per ton per mile, or 50 cents per bushel. At 7½ mills per ton per mile the cost of transport would be $8.83 per ton, or 26 cents per bushel.

At this rate the saving on the 55,000,000 bushels of wheat shipped from the Northwestern States in 1872 would be $13,200,000.

Saying nothing of other freights, this shows that at no distant day the Government would be justified in constructing such a road, if relief shall come in no other way.

This brings me, Mr. Speaker, to consider last in order the remedy which I think the Government should first adopt, and which, in my judgment, should have been boldly entered upon at the present session of this Congress, namely, the opening up and improvement of water-routes.

I do not mean, that we are prepared now to enter upon the vast system of improvements, presented by the special committee of the Senate upon cheap transportation; but I do mean, that one or more of these routes should be put at once in the best possible condition.

The following table, prepared for the above committee, will show the importance of water-routes in regulating and controlling rates on railroads:

Average monthly freight charges per bushel on wheat from Chicago to New York by water, (lakes, Erie Canal, and Hudson River,) by lake and rail, (lake to Buffalo and thence rail to New York,) and by all rail, 1868 to 1872, inclusive.

Month.	Year—														
	1868.			1869.			1870.			1871.			1872.		
	All water.	Lake and rail.	All rail.	All water.	Lake and rail.	All rail.	All water.	Lake and rail.	All rail.	All water.	Lake and rail.	All rail.	All water.	Lake and rail.	All rail.
	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.	Cts.
January	....	....	51	....	....	42	....	....	42	....	....	39	....	....	39
February	....	....	51	....	....	39	....	....	42	....	....	39	....	....	39
March	....	....	48	....	....	30	....	....	36	....	....	30	....	....	36
April	....	28	42	....	26	30	....	22	30	....	22	27	....	....	30
May	20	26	36	19	25	30	16	20	27	16	21	27	18	25	27
June	19	25	30	21	25	27	16	21	27	16	21	24	21	23	27
July	18	25	33	18	23	27	15	20	27	16	22	27	23	23	27
August	22	26	36	19	20	30	15	20	27	18	24	30	22	23	27
September	25	33	39	22	22	39	15	23	30	23	28	33	27	32	33
October	27	34	42	29	27	39	21	25	36	27	32	39	31	37	39
November	28	35	45	32	36	42	20	29	39	25	32	39	28	38	39
December	....	....	45	....	....	42	....	....	39	....	....	39	....	....	39
Average	25. 3	....	42. 6	24. 1	....	35. 1	17. 5	....	33. 3	21. 6	22. 3	31. 0	26. 6	28. 8	33. 5

Commenting upon this, the committee say:

During the year 1872 the "all-rail" rates were 24.5 per cent. higher than the "all-water" rates, the "lake and rail" rates were 7 per cent. higher than the "all-water" rates, and the "all-rail" rates were 16.3 per cent. higher than the "lake and rail" rates.

The average summer rail rate for 1872 (May, June, July, August, September, October, and November) was 31 2-7 cents, and the average winter rail rate in 1872 (December, January, February, March, and April) was 36 3-8 cents, the average winter rate being 16 per cent. higher than the average summer rate. By comparing the all-rail rates for the months of June, July, and August with the all-rail rates for December, January, and February we obtain a more accurate expression of the effect of ample water facilities in competition with equally ample rail facilities. The average all-rail rate during the three summer months just named was 27 cents, and the average of the winter months was 39 cents, the winter average being 44.4 per cent. higher than the summer average, when the competition of water transport was in full force. It may be supposed that the increase in the rail rates during the winter months is caused by the increased cost of transport during that season of the year, but this is true only to a very limited extent. The chief cause is the absence of competition by lake and canal. This is evident from the fact that although the cost of transportation by rail is not greater in October and November than in June and July, yet the average of the rates during the former months is 44.4 per cent. higher than the average of the rates during the latter months.

This rate of 12 cents per bushel, maintained through the entire year, as it would have been but for water-carriage, would have amounted, upon the wheat transported eastward in 1872, saying nothing of other grains and freights, to $6,600,000, showing the influence of the water-routes in their present imperfect condition.

Railroad managers testified before the Senate committee that during the season of navigation they regulated rates "by what the water-routes charged," and at its close "*by what the property would bear*," not by what will insure a fair, reasonable profit, but by leaving just so much margin as will induce the farmer to sell rather than retain his products.

As shown by authentic tables, the average price of No. 2 spring-wheat in Chicago during the year 1872 was $1.26.6. In Liverpool it was $1.86.9. The cost of transportation between these places by water was 64.3 cents. The difference in prices in excess of cost of transportation was 10.6 cents. Yet, as we have just seen, in the fall months of the same year, when labor was cheap, the weather fair, and the road-bed solid, without any conceivable cause or excuse therefor, the railroads imposed a tax of 12 cents upon every bushel of surplus wheat in the West, more than enough to wipe out the margin and close the Liverpool market against the Chicago grain. It may be replied that the water-routes did not prevent this, nor were the European markets actually closed, which is all true. But supposing there were no water-routes and this condition were to continue the year round, what would be the result then, with the railroads charging just as much as "the property would bear?"

Sir, I have said that these railroad men possessed more positive power than Presidents and Congresses. Here I present its demonstration: Dare this Congress, for any purpose whatever, impose a direct tax of 12 cents per bushel upon the farmer's wheat, and would the President sign the bill if it did? Yet here is a power which may do it, and which does do it year after year with impunity.

If water-routes must be maintained as guards and guarantees against extortionate rates and charges, then the true policy is to bring existing routes to the highest point of efficiency. It is said, however, that we cannot improve one of these routes without improving all; that local interests will prevent it. But is this a practical view to take of the matter? It must be some time before the country can be induced to enter upon the vast expenditures which all these improvements would require, estimated at $155,000,000, and which may cost twice that sum. But if we have faith in water-routes, then the true plan would be by reasonable but liberal appropriations to improve one or two existing routes, and bring them into the best possible condition. If we thereby establish the feasibility of the plan, and demonstrate that the annual saving will not only pay the interest on the investment but go far toward discharging the principal itself, then other improvements must follow at once.

It is claimed, and has been stated in debate at the other end of the Capitol, and not disputed, that the Erie Canal, by competition with railroads, has saved to the West $122,000,000, has paid its original cost of $43,000,000, and turned into the State treasury $40,000,000.

If the enterprise of a single State can accomplish this, what ought a nation to do? But which two routes shall be first improved? Fortunately this question has been settled. Nature and commerce have drawn the lines so broad and clear that national men, dealing with it as a national question, ought not to differ. The Mississippi River flows two thousand miles through one of the richest valleys of earth. Itself and tributaries drain fourteen States of the Union, and the wealth of an empire floats upon its waters. Immigration, enterprise, and trade have followed their course over the northern lakes for more than a century. New Orleans is the commercial emporium of the South, New York of the East and of the American continent.

Where men sell their commodities, there, as a rule, they make their purchases—there capital centers, enterprise develops, and exchanges are made. Between these places and their customers the lines of commerce are drawn.

As New York and New Orleans are the commercial entrepots of the East and South, so Chicago, Cincinnati, and Saint Louis are the great commercial centers of the West, and between these cities of the interior and those of the gulf and seaboard, the channels of commerce have been worn broad and deep, and over them, the tide of trade and travel will ebb and flow forever.

Here fact squares with theory. Of the 74,000,000 bushels of wheat shipped from the Northwest, in 1872, 7,000,000 went to Canada, 11,000,000 to the Gulf States, and 55,000,000 to the Atlantic seaboard.

The following interesting colloquy occurred between Senator CONKLING, of the Senate Transportation Committee, and the Hon. HENRY T. BLOW, while the latter was giving evidence before the committee at Saint Louis:

By Mr. CONKLING:

Question. You say that the enterprise and capital give themselves to eastern routes from the Mississippi basin to the Atlantic?

Answer. I do, sir.

Q. Why is that?

A. I state that as a fact.

Q. I know you did, but I ask you the reason of it?

A. I will state it a little differently from what you make it. I stated that the capital and enterprise of the country was invested in great lines across the country, through the grain-growing belt of the country. We all know that to be a fact. The railroads have absorbed the capital and enterprise of this country. Why they do it, I suppose, is because they expect to make money and good dividends from their stock, and because situated in that belt it gives a promise of perpetual profit.

Q. The point of my question was this: If grain can be carried on a down-grade to the mouth of the Mississippi and there find equal facilities with those of any other port to European markets, why does capital and why does enterprise embark in east and west lines of railroad across the country to the Atlantic rather than in the north and south lines to the Gulf of Mexico?

A. I think that is very simple: because the east and west lines run to the great cities, from which the grain of the country has generally been exported, and where the importations of the country come back in return.

Q. Do you think it is from a mere spirit of imitation that, because it has been, therefore capital elects to keep it so?

A. No, sir; I do not think that, but I think that the condition of the great routes south and the condition of the South itself, with its capital entirely gone, render it for the time being impossible for it to act at all as a capitalist.

Q. You speak now of the condition of things since the war?

A. I am speaking of the war and the condition since.

Q. Wasn't the same thing true previous to the war?

A. Previous to the war, my recollection is this: that we hadn't engaged in the exportation of grain to as great an extent, but that we had a much larger share of it in proportion than we have now. You see you are going back twelve or fifteen years.

Q. If you will allow me, I want to make a record of your reasons for the fact that the tread of enterprise and capital is from these basins east and west, and not north and south. I wish you to state, as you understand them, the reasons for that fact.

A. I believe it has its foundation, first, in a prejudice of capitalists, or a fear, if you please, with regard to the investment of money; second, in the fact that those railroads do run through these great grain-growing States—through the grain-belt. The great article of transportation on those railroads is grain that is grown in this country. It is necessarily the grain, because it is the only thing that they can export, and they are built for that purpose.

* * * * * * *

Q. They didn't run through the grain-belt until they were built, and I am asking you how they came to be built on a line of latitude rather than on a line of longitude.

A. I think I have stated that because the latitude had the grain and the longitude had not. For instance, the minute that you get below this city, you don't run through these grain-growing States. The grain grown in Tennessee, Alabama, Mississippi, and Arkansas is for local consumption, and hardly enough for that, while the grain grown in this belt of the country is for exportation, and because it is for exportation you have this very question here between the Grangers and the rail roads. Now, if you can get what you want from the statement of facts, you can arrive at it.

I cite the above simply to show that, in the improvement of the two proposed lines, the expenditure will be largely in favor of the South in proportion to the capital and commerce involved.

The following, taken from the report of the Senate committee, shows the relative tonnage of various ports and the causes which affect the courses of trade:

Why is it that, with all these advantages, so large a proportion of the heavy products of the West cross the Mississippi River and climb over high mountains, on expensive railways, rather than float down the river-current to the ocean? There are various circumstances which determine the course of trade beside the current rates of transportation. The magnitude of the grain business of a port depends upon the amount of available tonnage seeking freights, and this depends largely *upon the general business of the port.* This is true not only with respect to grain, but of all commodities which will not bear the cost of a round trip. It is not true, however, in regard to more valuable commodities, such as cotton, tea, sugar, and other articles of commerce, which can bear freight-charges high enough to meet the necessary profits *for both the inward and outward voyage.*

This is illustrated by the statistics of imports and exports at New Orleans and New York, and of other commercial seaports of the United States. There are no available statistics indicating the weight and volume of the commodities exported from and imported into the several ports of the United States—only the values and the amount of tonnage entered can be stated.

Value of imports and exports of ports of the United States during the year ending June 30, 1872.

Cities.	Value of imports.	Value of exports.	Tonnage entered from foreign ports.
			Tons.
Boston	$70,398,185	$21,443,154	881,486
New York	418,515,829	270,413,674	3,969,339
Philadelphia	20,383,853	20,982,876	417,911
Baltimore	28,836,305	18,325,321	368,136
Charleston	740,976	10,933,430	43,576
Savannah	627,410	28,246,607	139,523
Mobile	1,761,402	13,938,605	55,895
New Orleans	18,542,188	89,501,149	501,965
San Francisco	33,330,501	26,243,061	423,572

NOTE.—The value of imports is expressed in gold, and the value of exports in currency.

The tonnage of large ocean steamers is now from 3,000 to 5,000 tons, and these have proved the most economical and profitable for ocean-borne freight. The ports the business of which will justify the establishment of lines of these steamers, and insure their arrival and departure at regular intervals, must be the ones which will command the interior trade. Yet the average tonnage of vessels entering the port of New Orleans, as shown by the report of the above committee, is 1,050 tons, showing that while it is conceded to be the cheaper route, all this is overcome by obstructions at the mouth of the river; and which may be removed by an outlay of from $5,000,000 to $8,000,000, so that the largest ocean-steamers may touch the docks at New Orleans.

Two conditions must be met in the establishment of continental routes:

1. A full and regular supply of tonnage at the seaboard, with minimum rates for freights.

2. A full and regular supply of interior tonnage connecting therewith.

Establish a full and sufficient outlet at Buffalo and New Orleans, and tonnage on the lakes and river will adjust itself to the demands of commerce. Barge lines will be established on the rivers, and steamers of 500 tons be placed on the lakes, which could easily pass through the canals to the seaboard. Transfer charges would be avoided, while water rates would be more uniform and railway charges be regulated. Thus the whole business of transportation would be taken out of the realm of chance and speculation and brought more within the rules of legitimate business. Grain gambling would to some extent be discouraged by a regularity of prices, while the honest producer and honest carrier would receive more of the just rewards of their labors.

The Union' Merchants' Exchange of Saint Louis has estimated the cost of removing the obstructions at the mouth of the Mississippi, from eight to ten feet to Saint Louis, and five feet thence to the Falls of Saint Anthony, and four and a half feet above that point, at $16,010,000.

Upon this improvement the Senate committee comment as follows:

Persons best informed on this subject believe that, upon the completion of the entire river improvements, and with the largely increased business which is expected to result therefrom, grain can be transported in barges from Saint Paul to New Orleans at a fair profit for from 12 to 15 cents per bushel. Capt. W. F. Davidson, a gentleman of large experience in river navigation, has expressed the opinion that, with the improved river, the cost per bushel from Saint Paul to New Orleans need not exceed 12 cents. Estimating the probable cost at 15 cents per bushel to New Orleans, and at 27 cents from there to Liverpool, (the present average,) and the two transfers at Saint Louis and New Orleans at 1 cent each, the entire cost from Saint Paul to Liverpool would be 44 cents. The present cost by the cheapest routes, including elevator and terminal charges at western lake ports and at Buffalo and New York, averages about 71 cents per bushel. A saving of 27 cents per bushel could therefore be effected, which on the corn and wheat crops of Iowa and Minnesota alone would amount to over $36,000,000 per annum, more than enough to pay every year double the cost of the entire improvements.

The merits of the improvement of the Fox and Wisconsin Rivers, already ordered by the Government and estimated to cost $3,000,000, cannot be more concisely stated than in the following extract from the report of the Senate committee, made up largely from facts and figures furnished by Breese J. Stevens, esq., of Wisconsin:

In case the above estimate be considered too low for the water-route. the following is also submitted, it being based upon an assumed charge of 6 mills per ton per mile *down* the Mississippi River and through the Fox and Wisconsin improvement, and 8 mills per ton per mile *up* the Mississippi. The following are the results of such comparison:

From—	Actual cost per bushel of sixty pounds to Chicago by rail.	Estimated cost per bushel of sixty pounds to Green Bay via the Fox and Wisconsin improvement and the Mississippi River.	Saving by the improvement.
Saint Paul	$0 19.3	$0 8.7	$0 10.6
Winona	18.4	6.5	11.9
La Crosse	18.4	5.9	12.5
Prairie du Chien	18.4	4.8	13.6
Dubuque	17	5.1	11.9
Savannah	18	7.5	10.5
Fulton	17.5	7.9	9.6
Rock Island	15	8.8	6.2
Burlington	12	11.5	5
Average	17.1	7.4	9.7

Computing the cost at the rates last named, which are higher than the usual river charges, and about equal to the average carriers' charges on the Erie Canal, we find the average cost for all the ports named by the proposed water-route to be only 7.4 cents per bushel, against 17.1 cents by rail, showing a saving of 9.7 cents per bushel. The surplus of wheat and corn in Iowa and Minnesota in 1873 being over 60,000,000 bushels, the annual saving to be effected by the proposed improvement will amount to $6,000,000, or twice as much for a single year as the entire cost of the work. To this must be added a similar saving per bushel on the wheat and corn of Nebraska, and of a large part of Illinois and Wisconsin.

By referring to the crop-map in the appendix, showing the localities in which a surplus of wheat is produced, it will be observed that this improvement connects the lakes by direct water communication with the largest and most productive wheat region on the continent, and seems especially designed to afford for it the cheapest possible outlet to market. It is the shortest and cheapest connection with the most prolific wheat areas of Minnesota, Northern Wisconsin, and Iowa; and it passes through the richest wheat-producing region of Central Wisconsin. The four counties of Dane, Dodge, Columbia, and Fond du Lac, situated directly upon the proposed route, produced in 1869 an aggregate surplus of over 7,000,000 bushels of wheat. The other counties of Wisconsin which are closely contiguous to the Mississippi River produced an aggregate surplus of over 3,500,000 bushels, making a total surplus of over 10,500,000 bushels in Wisconsin, which would be benefited to the extent of the reduction above estimated.

Selecting from the committee's estimates of various routes I find the cost of completing these two great routes would be as follows:

Improvement of the Mississippi below the Falls of St. Anthony	$11,000,000
Improvement of the Fox and Wisconsin Rivers	3,000,000
The improvement, with the concurrence of the State of New York, either of the Erie Canal from Buffalo to Albany, or the improvement of the Oswego Canal to Albany, or the Champlain Canal from Lake Champlain to deep water on the Hudson, and including a connection between Lake Champlain and the Saint Lawrence River, each of which is estimated at	12,000,000
Total	26,000,000

This would be an expenditure of about $8,000,000 in the South, $6,000,000 in the Northwest, and $12,000,000 at the East. The annual interest upon this investment at 5 per cent. would be $1,300,000, while the annual saving to the West and South, and which will be shared by the consumers of the East, cannot, upon any of the various estimates made by competent judges, fall below $20,000,000 per year, or nearly the cost of the entire improvement. Indeed, upon most of these estimates the saving would be nearer $60,000,000 than $20,000,000 per annum. The committee say:

It is stated that in the ten years from 1855 to 1864, inclusive, the total number of tons moved one mile by the New York Central Railroad was 2,132,073,612, and by the Erie Railroad 2,587,274,914 tons; by the New York canals 8,175,803,065 tons; and the average charges of the Central Railway were 2.6 cents, Erie Railway 2.22 cents, and the canals, .91 cents per ton per mile. Had the freights which were carried by canal for the ten years been carried by rail, the additional freight-charges would have amounted to $122,637,045.97.

Thus, if, upon the limited capacity of the Erie Canal and the amount of business of ten and twenty years ago, the saving was over $20,000,000 per annum upon a single route, what must be the saving upon all of these routes when improved, with the increased business of the present time?

The cost of the Erie Canal was $43,639,000. The cost of the Canadian Canal, $35,639,000. The cost of a double-track railroad is estimated at over $200,000,000. And yet with these estimates and examples before us, showing what a small dominion or a single State can do, we hesitate to invest $26,000,000 sure to bring an annual return equal if not double the original investment. This money expended among the farmers, laborers, and business-men of the West and South would be like seed sown upon good ground.

The retention of from $30,000,000 to $50,000,000 per annum among the producers of wealth would have a wonderful effect in developing not only agriculture, but manufactures and commerce as well. Give the farmer an annual surplus of $500 or $1,000, and he will buy more land for his boys, or he will fence in and improve new fields. Place the laborer where by practicing rigid economy he can save up from $200 to $300 per year, and he will purchase a vacant

lot, erect a house, and his little home, take an interest in the affairs of his town, and become a satisfied and hopeful citizen. We can pursue this course in the line of statesmanship, or we can charge as much as the "property will bear," send the proceeds to Wall street to be invested in stock-gambling operations, and let the profits appear in fine equipages, elegant mansions, large fortunes suddenly amassed, and capital to be reloaned again to the producers at ruinous rates of interest.

Sir, we can pursue the one course, and build up the citizen and strengthen the country and her institutions; or we can pursue the other darken hope, and furnish food for communism.

The one course elevates the citizen and stimulates him to higher endeavors; the other robs wealth itself of the respect due to it, when legitimately acquired.

That condition is the best in life where thrift is the fruit of honest toil and common prudence. But when capital becomes so grasping that want and poverty stare in at every door and window of the laborer, and the shadow of despair falls across the hearthstone, then it is that educated labor becomes a slumbering volcano. When in the public journals we read morning, noon, and night of "strikes" among all classes of laborers, while we may be unable to decide upon the merits of any given case, we cannot fail to see that combinations of capital and combinations of labor are assuming an attitude toward each other in this country, which may well arrest the attention and challenge the thought of our profoundest statesmen.

We want in America no communism, no agrarian ideas, no confiscation of goods, but simply, in the language of the immortal Lincoln, "to lift artificial weights from all shoulders, to clear the path of laudable pursuit for all, to afford all an unfettered start and a fair chance in the race of life."

Mr. Speaker, we do not forget that railroads have built up the waste places of the West and made her fields "to blossom like the rose." Her lands could never have been settled so rapidly nor her bounteous harvests ever been gathered but for steam-cars on the one hand and improved agricultural machinery on the other; and while she would foster every useful invention and improvement, she only asks that they be not made instruments of injustice or extortion. She wages no war against railroads as such. She would see them liberally, even generously, supported. She desires only even-handed justice between these great corporations and the people, and she looks hopefully forward to that "consummation most devoutly to be wished" when all interests shall submit themselves to the authority of law, when enterprise shall receive its highest incentives, capital its proper percentage, and labor its just rewards.

IRON-MOLDERS' UNION.

Mr. FIELD. Mr. Speaker, the Committee on Education and Labor having reported to the House a bill "to incorporate the National Iron-molders' Union," and as that committee will not probably be called in the regular order before the close of the session, I propose at the first convenient opportunity to ask a suspension of the rules for the purpose of putting the bill upon its passage.

This course will preclude debate, and desiring to call attention to the measure I will now refer to some of the provisions of the bill.

The first section provides for the incorporation of the iron-molders' union therein named, and it further provides that "their associates and successors be, and are hereby, created an incorporation by the name and title of the Iron-molders' National Union," and by such name and title they shall have perpetual succession and shall be capable of suing and being sued, pleading and being impleaded, and of granting and receiving in its corporate name property, real, personal, and mixed, and of using said property and the proceeds and income thereof for the objects of said corporation.

The iron molders named in the bill are reputable and worthy men of the trade, and they represent about nine thousand mechanics connected with this useful industry in the United States.

Local unions have been organized in nearly every State and Territory, and for the purpose of carrying out more fully the benevolent designs of the order, a national union has been formed, and William Saffin, of Cincinnati, has been elected president.

In carrying out the objects of the association they have felt the need of a charter, not only to strengthen the credit of the union but to facilitate the transaction of business in the investment of funds, in the buying and selling of property, and the general management of its business affairs.

Without a charter the investments and business operations of the union must necessarily be carried on in the name of agents and trustees, resulting sometimes in needless expense and great inconvenience, and liable through death and other changes to complications, litigations, and losses. These results the iron-molders desire to avoid, and by obtaining a charter the business transactions of the union can be conducted without the useless machinery and expense which now embarrass their operations.

It is the intention of the union, as we are informed by its representatives, to erect halls for the convenience of local or auxiliary unions, and to establish libraries and lyceums for the moral and intellectual improvement of the craft.

Furthermore, as the interests and necessities of the iron-molders may from time to time require new and enlarged fields for employment, they propose to establish co-operative shops and foundries for their mutual benefit and advantage. They seek in this orderly and practicable mode to avoid contentions and conflicts with other citizens, and they anticipate beneficent results to grow out of the practical application of a well-settled principle of social science, thereby securing to themselves *a better reward for toil in the joint earnings of their own capital and labor.*

The Committee on Education and Labor, after a careful consideration of the measure, have agreed upon this bill, and they have directed me to report the same to the House and recommend its passage.

I see no objection to the bill; on the contrary, it appears to me plain that the iron-molders of the country should be supported and encouraged in the laudable and praiseworthy efforts now being made by them to elevate and improve the condition of the trade, and it is to be hoped that they may realize through *association* or *co-operation* all the benefits the system is so well calculated to secure, and I sincerely hope they may be successful in the undertaking, not doubting myself that the tendency of co-operation will be to an elevated standard of workmanship, greater skill and efficiency in the work, and a better reward for honest and deserving toil.

Mr. Speaker, I find a great many precedents in the acts of Congress to sustain the action which the committee recommend upon this bill; but I will refer only to a few charters of a similar character which have been granted since the close of the Thirty-seventh Congress, as follows: The National Theological Institute; The National Safe Deposit Company; The National Capitol Insurance Company; The National Life Insurance Company of the United States of America; The National Hotel Company; The National Bolivian Navigation Company; The National Life Insurance and Trust Company; The National Savings Bank.

And now, Mr. Speaker, when nine thousand workingmen ask Congress to grant a charter simply to enable them to buy and sell property and transact the business connected with their mechanical trade, I feel satisfied that every gentleman here with a disposition of fairness and consistency will not hesitate in supporting this bill, and I hope it may become a law before the close of the session.

The iron-moulders throughout the land take a deep interest in the matter, and I hope they may not be disappointed.

Mr. STANDIFORD. Mr. Speaker, after a careful consideration of this bill and the objects which it is intended to accomplish, I am compelled to say that in my opinion it is a measure eminently just and proper, and one which should become a law.

This is not a bill which proposes an appropriation for the benefit of these workingmen nor is there any remote possibility that the United States will be asked to give a dollar out of the Treasury, nor can I see in it any possible chance that the rights of any citizen or class of citizens shall be infringed by reason of it.

The advantages which it proposes to the iron-molders are simply that under its provisions they may organize societies for the improvement of their craft, establish reading-rooms and libraries for the benefit of members, collect and keep together funds for the benefit of sick and disabled members of their order while living, and the relief of the widows and orphans of deceased members and to be able to compel a strict account from the trustees of such funds. It will enable them to hold property in the name of their association, to collect their dues and make them responsible as an association for their debts. It will give them no more power over the capitalists of the country than they hold to-day through their present organizations.

The bill will enable molders to establish and maintain co-operative associations in which the profits of their labor are divided among themselves instead of payment of wages. If they desire to secure the benefit of their labor in that way instead of wages, I see no objection to their doing so. Other societies, other organizations, come here and ask to be incorporated, and are given charters, and in many instances these charters are accompanied by immense subsidies and grants.

Is it because these men are workingmen that we should not grant privileges to them that we give to others? Is the mechanic that furnishes the motive-power for this iron age of progress unfit to be trusted with the exercise of corporate rights? If so let it be so declared by our refusal to pass this bill.

There ought to be no controversy between capital and labor, nor need there be if there was a proper understanding between the laborer and his employer. The great cause of difficulty in this respect is the failure of the majority of those who employ labor to recognize the intellectual capacity and needs of the workingmen as distinguished from the mere physical force which he brings to bear in the production of the various articles of skill which combine to make our commerce.

They seem in many instances to recognize the mechanic only as a machine out of which it is the true policy of trade to get as much force and productive capacity with as little expense as possible. They seem to forget that their best interests may be subserved by appealing to the manhood of the workingmen, exciting their ambition to excel, and rewarding their efforts in that direction.

If there could be a better feeling of mutual interest established between the mechanic and his employer, this question of labor and capital would in my opinion cease to be a complication. If the capitalist would consult more freely with those he employs as to their needs with a view of ameliorating their condition, when it could be done without serious detriment to his business, he would find that their demands would not be extravagant or unreasonable, and he

would obtain as a free gift that which he fails to get by exciting their hostility, and receive their friendship personally and their interest as a class in his affairs and for his success. I am speaking now of the real workingmen of the country, and leaving out those pestiferous busybodies and demagogues who assume to represent the interests and advocate the wants of the workingmen, but who are repudiated by them.

The real mechanics of our country as a class are an intelligent, educated, and worthy class of men, and who are from the nature of their training and habits of thought honest. Unaccustomed to the practice of diplomacy or duplicity, they state their wants in a manly, straightforward way, and expect to be met and answered in the same spirit. Although this is a measure of vital interest to them, they have no lobby delegates employed to urge members to favor it or press its adoption.

There has been one result of the trades-unions, especially in the class of mechanics whose case we are now considering, which has been of the greatest advantage to the country at large: I mean the elevation in all that pertains to true manhood and good citizenship of the molder. And what is true of one class of laborers in respect to these organizations is true of all.

Nearly every trade has found it necessary to organize societies for mutual protection and benefit, and they have been not only beneficial to the workingmen, but in themselves have worked no injury to the interests of trade. At last the agriculturists have awakened to the necessity of organization. Granges have sprung up all over the country. The necessity for these organizations has been caused in a great measure by unjust legislation. The wealthier classes have had the best chances in our legislative halls, and the people are restive under the burdens which they feel being imposed upon them.

The property of the holders of bonds have been steadily, carefully, and jealously guarded until it has increased to double its original cost to them. This class of our citizens "toil not, neither do they spin," and yet they live off the best the country can produce and are clothed in luxury and ease; their property and incomes are held too sacred in the eyes of the Government to be taxed, while the laborer, the mechanic, and farmer toil through the laboring hours to furnish the means of this luxurious support. The time will come, and that shortly, too, when the farmers and mechanics of this country will assert their rights as a mass having interests too vital to pay tribute to the eastern bondholders, monopolists, or other moneyed powers. In a republic the burdens of the government ought to rest equally upon all; but instead of this our laws place the heaviest weight upon those least able to bear them. These eastern capitalists, these aristocratic bondholders, who set in their brokers' offices and control the financial interests of the nation, yes, even the Executive, are the ones who oppose anything in the shape of favorable legislation for the workingmen of the country, and who sneer at the demands of the West and the South, but who have only to ask for whatever the country can supply and Congress or the Executive power immediately acceeds to their demands. This has been the policy of the party in power for the last ten years. We all remember how a short time since, in these Halls, when the West and the South were asking for an increase of the currency, argument and irony, wit and sarcasm were brought to bear against it by these moneyed kings; resolutions, letters, printed articles, pamphlets, books, statistics, and the like were showered in upon us until, like a cloud of locusts, they obscured the sun. And yet, when we consider the inconsistency, I might rather say the unmitigated selfishness of their conduct, it gives rise to a natural feeling of resistance. When the panic was threatening these money centers with ruin how soon they came and demanded an inflation of the currency, and got it, too, to the extent of $26,000,000 issued in favor of these men in violation of law.

This inequality of taxation, legislation, and distribution of Executive favor is wrong, and until the equilibrium is restored this contest between capital and labor will go on, and may reach a serious result unless it is remedied. We talk about the people in terms of glowing eulogy, and then vote their money away in schemes of speculation. It is time that this kind of law-making was changed, and we make some laws really for the benefit of the workingmen and see to it that they are executed.

Previous to 1857, when the first molders' union was attempted, they as a class were a disorganized body of laborers who were compelled to dispose of their labor and skill for the price which the circumstances of the locality in which they lived permitted them to command, and in no part of the country could they obtain more than living wages, and scarcely that; for employers in places where labor was plenty could command it at their own price and go into the market and undersell those who were willing to pay an adequate price for wages. Since the organization of these unions this is all changed, knowing that he is able to protect himself from the extortion and avarice of unjust masters, his ambition is appealed to and the desire to excel in his calling, has taken the place of that tread-mill apathy which characterized him before, and the increased prosperity of the iron-manufacturing interest is evidence of its advantage to the capitalist who has invested his money in this branch of industry.

I am largely interested in business myself, and have occasion to employ a great many laborers in various capacities, and my experience teaches me that the more we encourage and foster the laboring classes the better it is for all. I have found also that paying the highest price for labor and then demanding and accepting only the best is one of the secrets of profitable business, and that the cheapest labor is to get good, skillful, intelligent men and pay them liberal wages.

The laboring men are the great distributers of the money of the country. They are not only the producers but are the consumers, and when they are thrown out of employment or their wages cut down we may expect to have hard times. All classes of trade are interested in their prosperity.

We should remember that the true strength and prosperity of our Government rests not with the representatives of wealth, but in the laboring classes; and if we would keep alive the fires of patriotism we must do it by fostering and caring for our workingmen.

These mechanics ask nothing of us that we are not in duty bound to give them. Other countries have extended this same protection to their skilled mechanics, and why should not we? If monarchies are willing to honor labor, it ill becomes the representatives of a republic to turn their backs upon the soiled garments of the mechanic.

The cry of communism and internationalism which some one has attempted to raise against the adoption of this measure is unworthy of consideration. The conduct of our mechanics, and their sentiments as expressed in the resolutions of their conventions during the time when foolhardy lunatics were attempting to raise the red flag of the French commune in this country, shows conclusively that our mechanics were not only not in sympathy with any such movement, but bitterly and positively opposed to it, and with reason, for its success would be the death-blow to everything which they could hope to gain by their organization, and was so recognized by them.

I hope that the House will grant the favorable consideration which this bill deserves, and give to these sons of toil—the architects of our prosperity in peace and our defenders in war—the protection which they ask at our hands; and I am sure that it will be an act that will never be regretted by any member who gives it his vote.

[Mr. BANNING, and Mr. CROSSLAND also addressed the House. Their remarks will appear in the Appendix.]

Mr. RAINEY. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at ten o'clock and twenty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were presented at the Clerk's desk, under the rule, and referred as stated:

By Mr. DAVIS: The remonstrance of John S. Carlile and others, attorneys, against the passage of any law depriving the district court of the United States for the district of West Virginia of circuit court powers, to the Committee on the Judiciary.

By Mr. DURHAM: The petition of Margaret C. Bell, widow of Rear-Admiral Henry H. Bell, United States Navy, for increase of pension, to the Committee on Invalid Pensions.

By Mr. SENER: The petition of citizens of Fort Smith, Arkansas, for the abolition of the western judicial district of Arkansas, to the Committee on Expenditures in the Department of Justice.

Also, the petition of citizens of Sebastian County, Arkansas, of similar import, to the same committee.

Also, the petition of citizens of Washington, Benton, and other counties in the western district of Arkansas, of similar import, to the same committee.

By Mr. SMITH, of Louisiana: The petition of citizens of Bossier Parish, Louisiana, for the establishment of a post-route from Collinsburgh, Louisiana, via Red Land, to Magnolia, Arkansas, to the Committee on the Post-Office and Post-Roads.

Also, the petition of R. M. Kearney, of Natchitoches, Louisiana, to be awarded suitable compensation for legal services in behalf of the Government, to the Committee on Claims.

Also, the petition of Mrs. Maria Waits, of New Orleans, Louisiana, to be compensated for the use of her house as a private hospital for United States officers and soldiers and for services and expenses as a nurse, to the Committee on Claims.

IN SENATE.

WEDNESDAY, *June* 10, 1874.

The Senate met at twelve o'clock m.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

The Journal of yesterday's proceedings was read and approved.

PETITIONS AND MEMORIALS.

Mr. SHERMAN presented the memorial of a large number of merchants of the city of New York, and a memorial of citizens of Portsmouth, Scioto County, eleventh district of Ohio, protesting against the passage of the law permitting growers of leaf-tobacco to sell $100 worth of their crop at retail to consumers without license or tax; which were referred to the Committee on Finance.

Mr. CAMERON presented a petition of citizens of Lancaster and York Counties, Pennsylvania, asking for an appropriation for the improvement of the Susquehanna River; which was referred to the Select Committee on Transportation Routes to the Sea-board.