

Objection being made by Mr. BRAGG, the bill was passed over. Mr. ATKINS. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MILLS reported sundry bills with and without amendments, and with a recommendation that they be passed.

Bills of the following titles, reported from the Committee of the Whole without amendments, were severally taken up and ordered to be engrossed for a third reading, read the third time, and passed:

A bill (H. R. No. 564) to confirm the title to certain lands in Platte County, Missouri, and authorize patents to be issued therefor to Kinsey B. Cecil;

A bill (H. R. No. 246) for the relief of John R. Nichols, late postmaster at Athens, Georgia;

A bill (H. R. No. 4132) for the relief of Patrick P. Manion, of Saint Louis, Missouri;

A bill (H. R. No. 1875) for the relief of E. A. Williams; and

A bill (H. R. No. 2518) granting jurisdiction and authority to the Court of Claims in the case of the schooner Don Pedro.

ELLA P. MURPHY.

Mr. MILLS. I ask unanimous consent that the Committee of the Whole on the Private Calendar be discharged from the further consideration of the bill (H. R. No. 1502) for the relief of Ella P. Murphy. This lady is the widow of a Federal soldier and is very poor. The bill has been unanimously reported from the Committee on Indian Affairs.

Mr. RICE, of Ohio. I hope the request of the gentleman from Texas [Mr. MILLS] will be granted.

Mr. MILLS. It is a very meritorious case.

The bill was read. It directs the Secretary of the Treasury of the United States to pay to Mrs. Ella P. Murphy, widow of Patrick Murphy, out of any money in the Treasury not otherwise appropriated, the sum of \$3,875, as full compensation for depredations committed by the Mescalero Apache Indians upon the property of said Patrick Murphy.

Mr. SPARKS. I object.

Mr. MILLS. The bill is reported unanimously from the Committee on Indian Affairs.

Mr. SPARKS. The Committee on Indian Affairs of the last House reported it adversely.

Mr. MILLS. It is a very meritorious case.

Mr. SPARKS. I examined the bill once as a member of a committee, and, in my judgment, it is not meritorious.

Mr. MILLS. Well, the Committee on Indian Affairs differ very materially with the gentleman.

Mr. SPARKS. Not only with me, but with the Committee on Indian Affairs of the last Congress.

Mr. MILLS. Will the Chair recognize me to move to suspend the rules and pass that bill for the benefit of the widow of a soldier.

Mr. CONGER. There is a report in this case; let it be read.

The report of the committee was read.

Mr. LATHROP. I object.

Mr. MILLS. I hope objection will be withdrawn.

Mr. HANNA. If the bill is amended so as to correspond with the report, which has been read, and this money is to come out of the Indian funds, and there has been this depredation on the part of this tribe, I do not see why we should make fish of one and flesh of another.

Mr. SPARKS. All the money the Indians get is what we give them, and if you take this we will have to give them more if we act on the principle of feeding rather than fighting them.

The SPEAKER. Objection is made, and the bill is not before the House.

#### LEGISLATIVE APPROPRIATION BILL.

Mr. ATKINS. I move, by unanimous consent, that whatever printing is necessary to facilitate the making of conference report on the legislative appropriation bill be ordered.

The SPEAKER. The Chair hears no objection, and it is ordered accordingly.

#### WHITEWOOD FLUME COMPANY.

Mr. PRICE. I move, by unanimous consent, to discharge the Committee of the Whole on the Private Calendar from the further consideration of the bill (H. R. No. 3669) incorporating the Whitewood Flume Company.

Objection was made.

And then, on motion of Mr. WHITE, of Pennsylvania, (at ten o'clock and thirty-five minutes p. m.,) the House adjourned.

### IN SENATE.

SATURDAY, June 15, 1878.

The Senate met at eleven o'clock a. m.

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

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on motion of Mr. McCREERY and by unanimous consent, the further reading was dispensed with.

#### ACTION ON APPROPRIATION BILLS.

Mr. MORGAN. I ask leave to introduce a joint resolution which I desire to have read at length for information.

By unanimous consent, leave was granted to introduce a joint resolution (S. R. No. 40) proposing an amendment to the Constitution in relation to appropriations; which was read the first time at length, as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring thereto.) That the following be proposed as an amendment to the Constitution of the United States, which, when ratified by three-fourths of the Legislatures of the several States, shall be valid to all intents and purposes as part of said Constitution, to wit:*

#### ARTICLE —.

The President of the United States may approve any appropriation in any bill passed by the two Houses of Congress, and the President may disapprove any other appropriation in the same bill, and in such case he shall designate in writing the appropriations which he shall disapprove, and he shall return a copy of each and every appropriation so disapproved, with his objections, to that House in which said bill shall have originated, and the same proceedings shall then be had on each appropriation so disapproved as is required in section 7 of Article 1 of the Constitution of the United States of America in case of bills disapproved by the President.

The joint resolution was read the second time by its title, and referred to the Committee on the Judiciary.

#### DISTRICT SPECIAL IMPROVEMENT TAXES.

Mr. BAYARD. I find by looking at the RECORD of the 12th of June that the bill (S. No. 1088) providing for the correction and revision of assessments for special improvements in the District of Columbia, and for other purposes, was passed in the form of a substitute without examination, without debate or question. I move that the bill be recalled from the House of Representatives and that a message to that effect be sent to the House.

The motion was agreed to.

#### BEN ALSOP.

Mr. McCREERY. I ask the present consideration of Senate bill No. 1026, which will not occupy one minute, I think.

Mr. WINDOM. I desire to call up the resolution extending the time of adjournment; but as the Senate is very thin I prefer to wait a few moments, and therefore I shall not make any opposition to the request of the Senator from Kentucky.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kentucky, that the Senate proceed to the consideration of the bill (S. No. 1026) granting a pension to Ben Alsop.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It places on the pension-roll the name of Ben Alsop, of Owensborough, Kentucky, a soldier in the war of 1812.

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

#### DR. P. F. REUSS.

Mr. KERNAN. I move that the Senate proceed to the consideration of the bill (H. R. No. 3565) granting a pension to Dr. P. F. Reuss, late surgeon Seventh New York Volunteers.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

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

#### ORDER OF BUSINESS.

Mr. SAUNDERS. I ask the Senate to take up the bill (S. No. 1284) creating the Utah and Northern Railway Company a corporation in the Territories of Utah, Idaho, and Montana, and granting the right of way to said company through the public lands.

Mr. WITHERS. That is not a bill to be passed in the morning hour.

Mr. KERNAN. I think the Senator from Michigan [Mr. CHRISTIANCY] takes some interest in that bill, and he is not in his seat.

Mr. SAUNDERS. This bill was called up the other day in regular order on the Calendar, and it was objected to by the Senator from Michigan. I have shown the bill in its amended form to the Senator from Michigan, and he is satisfied to vote for it. I also showed it to the Senator from Ohio, [Mr. THURMAN,] who objected to the bill being taken up the other day, and he is satisfied. It is merely to grant the right of way to this corporation. They find no laws there by which they can get their rights. In order to meet all the objections that have been raised both outside and in the Senate a substitute to take the place of the former bill was prepared by the committee, and it is unanimously recommended. It is very short, and I should like to have it read for information.

The PRESIDENT *pro tempore*. The Secretary will report the bill for information, subject to objection.

Mr. WITHERS. I do not think it would be judicious to consume the time of the Senate now in so important a matter as that, particularly when, if we proceed with the call of the Calendar, the bill will be reached in its order.

Mr. SAUNDERS. If the Senator will allow me, this bill was called up in its regular order on the Calendar, and it was objected to by the Senator from Michigan, who thought it was another bill. When the bill was shown to him he said it was perfectly satisfactory. It was also shown to the Senator from Ohio, who had taken the same view of the matter, and he also was satisfied with it.

Mr. WITHERS. I think it is too large a matter to be passed in the present condition of the Senate.

Mr. SAUNDERS. There is nothing in it in the world but to grant the right of way through the public lands. The company have struck the Territory of Utah and find no law by which they can proceed.

Mr. WITHERS. I understood that from the reading of the bill.

Mr. SAUNDERS. I will state to the Senator further that the corporation is waiting for this action at the present time, and probably a hundred miles of road will be built into the Indian country if this bill is passed, which will not be built if it is not passed. Yet the bill grants nothing but the right of way through the public lands.

Mr. WITHERS. My principal objection to it is that there are several bills similar to this to which there will really be no objection upon examination, and we have determined to proceed with the call of the Calendar. Let us go on under that call and get through with the Calendar of unobjected cases.

Mr. SAUNDERS. I will state further that a delegation from the Territories concerned have been here, day after day, asking that this matter be taken up. They have talked to a number of Senators here.

Mr. WITHERS. There are a great many other lobbyists here urging that bills be taken up.

Mr. SAUNDERS. Let it be taken up, and if there are objections to it let them be raised; but certainly let us have an opportunity to have the bill explained, which we could not do when one objection carried the bill over the other day. If there is any objection to the bill, make it known.

Mr. WITHERS. Then I object.

Mr. SAUNDERS. I do not mean that; I mean if there is any objection on the merits of the bill let the matter be discussed. If the Senator from Virginia will look over the bill or have it read again, I am sure he will raise no objection to it. I do not know of any objection that can be raised to it. It has been shown to a number of Senators. No objection is now raised by anybody on any proper ground of objection.

Mr. PADDOCK. This is not, as I understand, a new proposition for a new grant to a road in prospective.

Mr. MERRIMON. I call for the Calendar.

The PRESIDENT *pro tempore*. The Senator from North Carolina calls for the regular order, which is the Calendar. The first case on the Calendar will be reported.

Mr. SAUNDERS. I move that the Calendar be laid aside.

The PRESIDENT *pro tempore*. The Senator from Nebraska moves that the Calendar be laid aside for the purpose of proceeding to the consideration of the bill which he has named.

Mr. HOAR. I do not object to the Senator's motion, but I rise to inquire whether that can be done during the morning hour without unanimous consent.

The PRESIDENT *pro tempore*. It is simply an order of the Senate and may be reversed by a majority of the Senate. It is not a rule.

Mr. HOAR. I understood that the Anthony rule was adopted, so far as it applies to the morning hour, by unanimous consent, and it was stated by the Chair, not by the present occupant of the chair perhaps, that the Calendar could not be laid aside except by unanimous consent in the morning hour.

The PRESIDENT *pro tempore*. The Anthony rule for the morning hour was adopted under a resolution submitted by the Senator from California, [Mr. SARGENT,] that during the remainder of the morning hour after the regular morning business is concluded the Senate proceed to the Calendar under the Anthony rule. That was agreed to by a majority of the Senate and a majority of the Senate may reverse it or set it aside.

Mr. SAUNDERS. So I understood.

The PRESIDENT *pro tempore*. The Senator from Nebraska moves to take up the bill. It has been the practice to entertain such motions every morning, notwithstanding the operation of the order relating to the Calendar.

Mr. MERRIMON. This bill was called up the other day. The Senator from Michigan and the Senator from Ohio excepted to it, and they went on to state the reasons why they did so. We see that it is a very important matter. Neither of those Senators is here. The Senate is very thin, and it really seems to me that so important a bill ought not to be considered in the present state of the Senate.

Mr. SAUNDERS. The Senator from North Carolina is mistaken in stating that those Senators gave reasons for objecting to the bill. They simply objected, and the bill went over; but they are now satisfied with it. I state on my position here as a Senator that they are satisfied with it, and are in favor of the passage of the bill.

Mr. PADDOCK. I do not think the Senator from Michigan objected to the merits of the bill. He objected to its interjection at that particular moment.

WILLIAM M'GARRAHAN.

Mr. VOORHEES. Will the Senator allow me to make a motion on another matter?

Mr. PADDOCK. There is a motion now pending.

Mr. VOORHEES. Yesterday, after waiting an hour expecting a report from the Committee on Public Lands in the matter of the memorial of William McGarrahan, in accordance with the pernicious custom which destroys a Senator's usefulness here, I went out in the lobby for a moment in answer to somebody's call, and during my

temporary absence for only a moment a report was made adversely upon the memorial, and it was indefinitely postponed. To that I should have objected if I had been present, and I rise now simply to ask that a motion to reconsider the vote by which the report was indefinitely postponed may be entered, and that the memorial may be placed upon the Calendar.

The PRESIDENT *pro tempore*. Is there objection to this motion?

Mr. SARGENT. There is no bill accompanying the report. I do not know what we can place on the Calendar.

Mr. PADDOCK. The report is based simply upon the memorial of Mr. McGarrahan. There is no affirmative proposition to be brought before the Senate.

Mr. SARGENT. There is no bill, no resolution, nothing to be considered.

Mr. VOORHEES. There is a memorial.

Mr. SARGENT. We do not put memorials on the Calendar.

Mr. VOORHEES. I confess I am somewhat at a loss myself about it. I want a motion entered to reconsider the vote by which the memorial was indefinitely postponed. I do that especially in view of the fact that the committee gave notice that at some future time they would submit a report on this subject, and that they may submit their report and the whole case may go together I desire the indefinite postponement to be reconsidered.

Mr. SARGENT. There could be no motion to indefinitely postpone a memorial.

The PRESIDENT *pro tempore*. There is no bill on the Calendar upon this subject.

Mr. SARGENT. When a committee report adversely if they report a bill or resolution it may go on the Calendar. Otherwise there is nothing to consider.

Mr. VOORHEES. The RECORD reads as follows:

Mr. OGLESBY. The Committee on Public Lands, to whom was referred the memorial of William McGarrahan, praying the passage of a law to authorize the perfecting of a patent claimed to have been issued to him by the United States for certain lands in California, have had the same under consideration and have instructed me to report the same back with the recommendation that the prayer of the memorialist be denied and that the memorial be indefinitely postponed. The committee ask leave to prepare and present a more complete report on the subject, to be submitted to the Senate hereafter.

The PRESIDING OFFICER. Is there objection to this order? The Chair hears none.

Mr. SARGENT. That was mere surplusage. We never postpone memorials indefinitely. The committee did not ask to be discharged or continued. There is no occasion for any action of the Senate now. They simply made a partial report, and asked leave to make a further report, but they did not report either a bill or a resolution or anything that could be indefinitely postponed.

Mr. VOORHEES. Then the Senator from California will not draw a conclusion from this that the matter has been discharged from the committee's hands?

Mr. SARGENT. Of course not; because they asked leave to have it continued in their hands to make a further report.

Mr. VOORHEES. I desire my motion to be entered at least.

Mr. SARGENT. I ask that the Journal be read, if my friend will allow me.

The PRESIDENT *pro tempore*. The Journal will be reported; and the Senator from Indiana may move to have the Journal amended so as to meet his wish.

The Secretary read from the Journal of yesterday's proceedings, as follows:

Mr. OGLESBY, from the Committee on Public Lands, to whom was referred the memorial of William McGarrahan, submitted an adverse report thereon.

Mr. SARGENT. That is all the Journal says about it?

The PRESIDENT *pro tempore*. That is all.

Mr. SARGENT. It is simply an adverse report.

Mr. HOAR. The Journal is certainly incorrect. I remember very distinctly that the Senator from Illinois moved the indefinite postponement of the memorial. I do not agree with the Senator from California that the Senate cannot properly indefinitely postpone the consideration of a memorial or petition. It is one mode of bringing a subject before the body. When it is received it is ordinarily referred. When the committee report adversely upon a petition or memorial they may report that it lie on the table or they may report the indefinite postponement of the subject. Either is a proper parliamentary method of disposing of it.

Mr. VOORHEES. That is what I supposed.

Mr. SARGENT. If it were indefinitely postponed, how could the committee have further time to consider it, which was given?

Mr. HOAR. The Senator from Illinois did not ask further time to consider the memorial.

Mr. SARGENT. He asked further time to make a report.

Mr. HOAR. No; not that. He asked what is a very common thing, that a fuller report stating the opinion of the committee might be presented.

Mr. SARGENT. Certainly.

Mr. HOAR. That is an ordinary case, that a report be received long after the matter is disposed of.

Mr. SARGENT. I speak confidently that the Senate never does indefinitely postpone memorials. There must be some bill or resolution for the indefinite postponement to take effect upon; and in this case, as the Journal shows, the memorial was not indefinitely postponed.

Mr. VOORHEES. I presume the RECORD is correct in its recital of what the chairman of the Committee on Public Lands said and sought to have done on that occasion, for the presiding officer responded, asking whether there was objection. There being none, I presume, of course, the order was made. All that I desire is that as the committee has taken further time to make a report upon this subject, the Journal shall not show that the memorial was indefinitely postponed; and if the Journal is made to show that fact, there is no occasion for the motion which I have made for a reconsideration.

The PRESIDENT *pro tempore*. The Chair will state to the Senator from Indiana that the record, as read by the Secretary, does not show that there was any motion to indefinitely postpone the memorial.

Mr. VOORHEES. Very well; I am content with that.

Mr. MERRIMON. I have no interest in this matter further than to say that the rule is perfectly clear, as I understand it. I do not concur in the view expressed by the Senator from California. When there is an adverse report, and the report is agreed to, and the papers of a claimant go upon the files, that is the end of the case under the rules of the Senate, unless he shall file a petition setting forth that additional evidence has been discovered not before the committee on the former occasion.

Mr. SARGENT. That will not apply to this case.

Mr. VOORHEES. I wish to correct the Journal so as to show that further time was allowed the committee to make their report hereafter. I presume that was the fact.

Mr. HOAR. Can there be any doubt that if an adverse report be made from a committee and any member of the Senate objects to or dissents from its conclusion, he may object to the acceptance of the report or he may move to recommit with instructions to prepare a bill or other parliamentary mode; and when that is done it is a proper parliamentary motion to move to indefinitely postpone the consideration of the subject? If that is proper, it is equally proper for the committee to move the indefinite postponement.

Mr. SARGENT. That is not the motion I was combatting. There is nothing about an indefinite postponement on the Journal. Therefore I object to the motion to reconsider a motion which was never put, and never carried, and which the Journal does not show.

Mr. HOAR. That is a different question.

Mr. GORDON. Surely it cannot be the interpretation of the rule that an adverse report ends a case. If that be true, if the Senator from North Carolina is correct, then we can transfer to committees the transaction of our business. If a committee can consider a case and end it by an adverse report, then the Senate has nothing to do but to turn over its business to committees. My understanding of the rule is that a committee simply expresses its sense of the justice or injustice of a case submitted to it, and that the case is then submitted to the Senate for its final judgment. Only yesterday the Senate passed a bill on my motion under an adverse report from a committee.

Mr. SARGENT. There was a bill in that case; there was something for the Senate to act upon. This is merely the opinion of a committee. The committee gives its opinion as it has a right to do. There was no bill, there was no resolution which they reported back. Consequently there was nothing to indefinitely postpone. Are you going to indefinitely postpone the opinion of a committee?

Mr. GORDON. But surely on the motion of a Senator who is merely interested in the subject-matter of the memorial, it could be recommitted to the committee or referred to some other committee.

Mr. SARGENT. That is another motion.

Mr. VOORHEES. The Senator from California and I do not differ in our construction of the statutes of the case as I understand it. If the Journal, after showing that an adverse report was made, be corrected so as to show that the committee asked further time to make an additional report hereafter, I am satisfied to let the matter rest there.

The PRESIDENT *pro tempore*. The Chair will state that the adverse report does not conclude the matter unless the Senate adopts the adverse report. In such a case that would be a conclusion of the matter; but in this case the memorial was submitted with an adverse report and submitted to the Senate without action.

Mr. SARGENT. I think the Journal should show that the committee were granted leave for a further report.

The PRESIDENT *pro tempore*. That can be done by some Senator moving to amend the Journal.

Mr. VOORHEES. I have moved to amend it in that particular.

The PRESIDENT *pro tempore*. The Senator from Indiana moves that the Journal be amended so as to show that the Senator who made the report asked that further time be allowed for a fuller report. The Journal will be corrected in that particular if there be no objection.

Mr. OGLESBY. What the chairman of the Committee on Public Lands stated and what he was instructed to state—

Mr. VOORHEES. Allow me to show that I was right. I find a memorial on the Calendar: "The memorial of the Musical Protective Union of New York, praying the passage of a law prohibiting military bands from playing at public or private entertainments," reported by "Mr. BURNSIDE, Committee on Military Affairs, adversely."

Mr. SARGENT. It has no business there; that is all. How can we pass upon a memorial?

Mr. VOORHEES. Mr. President—

The PRESIDENT *pro tempore*. The Senator from Illinois [Mr. OGLESBY] has risen to speak, and he, having reported the memorial, will be recognized by the Chair.

Mr. WADLEIGH. Will the Senator from Illinois allow me to make a report?

Mr. OGLESBY. I desire to make one myself.

Mr. WADLEIGH. The Senator from Delaware [Mr. SAULSBURY] is very anxious to leave the Hall for certain reasons, and he desires to say a word upon this matter. It will take but a moment.

Mr. OGLESBY. Very well. I want to say to the Senator from New Hampshire, however, that the Senator from Nebraska [Mr. SAUNDERS] has been trying diligently and faithfully for several days to get a bill through here to which there ought to be no objection, as I think he gave way to the Senator from Indiana momentarily.

Mr. VOORHEES. And I beg pardon for taking up so much time.

Mr. OGLESBY. I have refrained from saying anything on the matter because of the fact that I would have been imposing on the indulgence of the Senator from Nebraska. Now, if the Senator from Nebraska will further allow the Senator from New Hampshire to make his report, I cannot object.

Mr. SAUNDERS. If it is going to take up any time I cannot yield for it.

Mr. WADLEIGH. It will take no time.

Mr. SAUNDERS. Let me say to the Senate that we can dispose of the bill which I have moved in five minutes if it is allowed to come up.

SENATOR FROM OREGON.

Mr. WADLEIGH. I am directed by the Committee on Privileges and Elections, to whom was referred a resolution of the Senate authorizing said committee to investigate and report upon certain charges, that the election of LA FAYETTE GROVER as a Senator from the State of Oregon was procured by bribery, corruption, and other unlawful means, to report that in their opinion the evidence taken does not sustain any of said charges against him. Your committee therefore ask to be discharged from the further consideration of said resolution, and that any member of said committee have leave to present to the Senate at the present or the next session his views in writing upon said testimony.

Mr. SAULSBURY. I give notice that I shall present my views in writing separately. While I concur in the general conclusions of the committee, I shall ask to assign the reasons for the opinions which I entertain in that regard.

The PRESIDENT *pro tempore*. That privilege is granted without objection.

Mr. SAUNDERS. Now I insist on my motion.

The PRESIDENT *pro tempore*. The Senator from Illinois has the floor upon the correction of the Journal.

Mr. HOAR. I rise to a question of order.

The PRESIDENT *pro tempore*. The Senator from Massachusetts rises to a question of order. He will state it.

Mr. HOAR. My point of order is that when by consent a subject from another committee is introduced, the Senate cannot pass away from that subject in the middle to take up the other one.

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts rise to the matter pending?

Mr. HOAR. I rise to the matter pending.

The PRESIDENT *pro tempore*. The Chair will hear the Senator.

Mr. HOAR. I desire that the privilege reserved to the Senator from Delaware may be reserved to any other member of the Committee who sees fit to exercise it.

The PRESIDENT *pro tempore*. That will be granted. The Senator from Illinois [Mr. OGLESBY] rises to a correction of the Journal.

WILLIAM M'GARRAHAN.

Mr. OGLESBY. I only wanted to say in regard to the question of the memorial of Mr. McGarrahan that the Committee on Public Lands fully and thoroughly and finally considered the subject as dispassionately and as patiently as they could, and the Committee on Public Lands of the Senate arrived at a conclusion. They instructed me to report that conclusion back. I did report it back in the language that appears in the RECORD, but I did not ask in the name of the committee to be discharged from its further consideration, because the committee thought that upon the whole it might be better to file with their conclusions a more full and lengthy report on the subject. They have reported already their conclusions, and they are now stated in the RECORD, but presuming that it might be proper for the committee to lay before this body a more correct and specific statement of the grounds of their conclusion, I took leave to add, at the conclusion, in making the report, this remark:

The committee ask leave to prepare and present a more complete report on the subject, to be submitted to the Senate hereafter.

That was the reason why I did not ask to be discharged from its further consideration; for if the committee had been discharged from its further consideration I do not know that they could have presented an additional report. I therefore suggested that the memorial be indefinitely postponed. I do not know that the committee has any objection to its being restored to the Calendar. I have not consulted them on that subject. I do not know that they would have the

slightest objection to any necessary modification of the Journal to show what the Senator from Indiana desires.

Mr. SARGENT. That is, simply to show that the committee had further time to make a report.

Mr. OGLESBY. I beg leave further to state that the committee may not after all conclude to file an additional report. They may not upon further reflection consider that it will be their duty to file a further report. Their present intention, however, is to do so. It is at present their intention to write out and send in a very lengthy report, but there is nothing obligatory upon the committee about that. We simply asked leave of the Senate to do so, which was granted. If consistently with the leave which has been granted to us the wishes of the Senator from Indiana can be carried out, I have no doubt the Committee on Public Lands of the Senate would be willing for that to be done. They have no prejudice in the matter, and no feeling on it, certainly.

Mr. VOORHEES. I have none, whatever. I observe under Rule 58 that—

Whenever a claim is presented to the Senate and referred to a committee, and the committee report that the claim ought not to be allowed, and the report shall have been agreed to by the Senate, it shall not be in order to move to take the papers from the files for the purpose of referring them at a subsequent session, unless the claimant shall present a memorial for that purpose, stating that new evidence which has been discovered since the report, and setting forth new evidence in the memorial.

There seems to be some question as to whether this memorial was indefinitely postponed or not, and as the easiest way of solving this matter, so as to keep it within our control, I move that it be placed on the Calendar. As a precedent for that I will call the attention of the Senator from California to the very first matter on the Calendar now, on page 3, it being "the petition of the legatees of Asbury Dickens, deceased, praying," &c.

Mr. SARGENT. There is a bill in the case of Asbury Dickens.

Mr. VOORHEES. No, sir; it is a petition reported adversely.

Mr. SARGENT. There is a bill.

Mr. VOORHEES. It is reported adversely; I do not know whether there is a bill with the petition or not.

Mr. SARGENT. Adverse reports go on the Calendar when the memorials are accompanied by bills.

Mr. VOORHEES. I am informed there is no bill with the petition in that case.

Mr. SARGENT. I am confident there is.

Mr. VOORHEES. I am informed that there is no bill, by the officers of the Senate. I think the easiest way is to let this matter go on the Calendar, and then it will be within our reach and not take up further time this morning.

Mr. SARGENT. Then I wish to move to indefinitely postpone it, and I am prepared to discuss the question now.

The PRESIDENT *pro tempore*. The Senator from Indiana moves that the memorial be placed on the Calendar. Does the Senator from California move the indefinite postponement of the memorial?

Mr. SARGENT. I do.

Mr. OGLESBY. May I ask the Senator from Indiana what can be accomplished by restoring the memorial to the Calendar? Suppose the Senate should conclude that it ought not to be indefinitely postponed, what relief can be granted the memorialist on the memorial? Would not the subject really have to come up in the nature of a bill?

Mr. VOORHEES. If the Senator from Illinois, the chairman of the Committee on Public Lands, will state that he does not ask its indefinite postponement, I am content. I simply do not want it indefinitely postponed. That is all the object I have in view.

Mr. MERRIMON. I beg to say a word.

The PRESIDENT *pro tempore*. The Chair will state that the record shows that there was no such motion. The record must be corrected to include such a motion, if that be the understanding of the Senate. The record shows that there was no such motion.

Mr. MERRIMON. But the RECORD shows that the difficulty that the Senator from Indiana wants to get over is there.

Mr. SARGENT. It does not. The Chair does not mean the printed RECORD, but the Journal, the record of the Senate.

Mr. MERRIMON. My view conforms to this in substance: the chairman of the committee reported adversely—

Mr. SARGENT. And there the Journal stops.

Mr. MERRIMON. And then the Senate agreed to that adverse report, for the Chair said: "Is there objection to this order? The Chair hears none;" and thereupon it was accordingly ordered that the report of the committee be received and agreed to; and the difficulty that the Senator from Indiana wants to get over still remains. At the next session, if he shall desire to take these papers from the files and recommit them to the committee, he cannot do it in the face of the rule which he has just read to the Senate.

The PRESIDENT *pro tempore*. The Chair will remind the Senator that the Journal does not show what is read from the RECORD, as he will see if he will listen to the Journal covering the record of that case. The Secretary will read the Journal entry.

The Secretary read as follows:

Mr. OGLESBY, from the Committee on Public Lands, to whom was referred the memorial of William McGarrhan, submitted an adverse report thereon.

Mr. MERRIMON. Now, Mr. President, although the Journal does not show the fact that the report was agreed to, the fact is that the

report was agreed to, and the Journal ought to show that, for the Chair said, and I take it nobody will question the accuracy of the Reporter:

Is there objection to this order? The Chair hears none.

Mr. SARGENT. We go by the Journal of the Senate.

Mr. VOORHEES. We are all bound by the Journal, not by the RECORD.

Mr. SARGENT. We are only bound by the Journal of the Senate.

Mr. VOORHEES. I am willing to let it remain as it is.

Mr. SARGENT. I am informed by the Senator from Vermont, [Mr. EDMUNDS,] who is in his seat but too ill to speak, and by the older Senators generally, that a memorial should not be placed on the Calendar, nothing except that which requires the action of the Senate. I am perfectly willing to consider this case as in abeyance; but if this matter is to be pressed I desire to be heard upon it. I can scarcely stand up, having worked nearly all last night; but as this matter involves great interests relating to my own State I do not want any action which shall in any way compromise the interests of my State hereafter.

Mr. PADDOCK. It seems to me this is entirely irregular. My colleague has the floor.

Mr. SARGENT. On the other hand I do not ask any advantage—

Mr. VOORHEES. With the understanding that this does not conclude the subject I withdraw the motion I made on the subject.

Mr. SARGENT. And I withdraw mine.

The PRESIDENT *pro tempore*. The motions are withdrawn. This is a question of the correction of the Journal, which has priority. The Senator from Nebraska [Mr. SAUNDERS] now has the floor for his motion. The Chair will, however, first receive morning business, if Senators have any to present.

#### PETITIONS AND MEMORIALS.

Mr. WALLACE presented three memorials of councils of the order of United American Mechanics of the State of Pennsylvania, remonstrating against any change in the present tariff laws; which were referred to the Committee on Finance.

Mr. WHYTE presented the petition of D. H. Miller & Son, John Richardson & Co., G. S. Watts & Co., and others, citizens of Baltimore, Maryland, praying that should the bill to reduce the tobacco tax, now pending in the House of Representatives, pass, it may be so amended as to allow a rebate of all taxes paid upon tobacco on hand at the passage of the act; which was referred to the Committee on Finance.

He also presented the petition of Robert C. Buchanan, colonel and brevet major-general United States Army, praying compensation for the use by the Government of his patent for a canvas portable boat, and for damages from the infringement of his patent; which was referred to the Committee on Military Affairs.

The PRESIDENT *pro tempore* presented the petition of Mary F. Eastman, Henrietta L. F. Walcott and others, officers of the association for the advancement of women, praying that the tenth census may contain a just enumeration of women as laborers and producers, the wages of women, the causes of pauperism and crime; and that women may be employed to collect vital statistics concerning women and children; which was referred to the select committee to make provision for taking the tenth census.

Mr. CONKLING presented the memorial of Robert G. Wheeler, pastor of a Congregational church in Brooklyn, and sixty members of the congregation, remonstrating against the present war on the Indians, and requesting in its stead an investigation as to the wrongs of the Indians; which was referred to the Committee on Indian Affairs.

Mr. DENNIS presented the petition of Joseph H. Maddox, of Maryland, praying compensation for property alleged to have been seized and appropriated by United States military forces during the late war; which was referred to the Committee on Claims.

#### REPORTS OF COMMITTEES.

Mr. SPENCER, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 537) for the relief of William P. Hazard, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 1304) for the relief of Robert C. Walker, late paymaster United States Army, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the bill (S. No. 129) donating the military reservation of Fort Smith, Arkansas, to the city of Fort Smith, for free schools, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of Samuel Marshall, late of Company E, Second North Carolina Mounted Infantry Volunteers, praying for the correction of his Army record by the removal of the charge of desertion therefrom, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. WADLEIGH, from the Committee on Military Affairs, to whom was referred the petition of Colonel James T. Shelley, praying to be

reimbursed for the amount of certain moneys expended by him in recruiting, organizing, and drilling troops for the United States Army during the late war, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the petition of William H. Morgan, of Osage City, Kansas, praying for the payment of bounty money claimed to be due him, submitted a report thereon, accompanied by a bill (S. No. 1405) for the relief of William H. Morgan.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. BURNSIDE, from the Committee on Military Affairs, to whom was referred the bill (S. No. 947) for the relief of Major Jacob E. Burbank, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the memorial of John Gotshall, late of the Tenth United States Infantry, praying to be reappointed to his former rank and position in the Army, reported adversely thereon, and the committee were discharged from the further consideration of the memorial.

He also, from the same committee, to whom was referred the petition of citizens of Indianapolis, Indiana, praying the passage of a law placing the name of General John C. Frémont on the retired list of the United States Army with the rank of brigadier-general, reported adversely thereon; and the committee were discharged from the further consideration of the petition.

Mr. SARGENT, from the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 5049) authorizing a settlement of the claim of the estate of the late Rear-Admiral John A. Dahlgren, reported it without amendment.

Mr. MORRILL. I ask leave to report back from the Committee on Finance several petitions in relation to the remonetization of silver and the repeal of the resumption act, asking to be discharged from their further consideration, that they may be returned to the Secretary's office.

There being no objection, the committee were discharged from the further consideration of the petitions.

Mr. MORRILL. The same committee ask to be discharged from the further consideration of certain resolutions and petitions in relation to the tax on spirits in bond.

There being no objection, the committee was discharged.

Mr. MORRILL, from the Committee on Finance, to whom was referred the memorial of Chester A. Arthur, collector of the port of New York, praying the passage of a law authorizing the proper officers of the Treasury Department to adjust and settle a discrepancy in the accounts of the late cashier of the custom-house at that port, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of Damon Y. Kilgore, a citizen of Philadelphia, Pennsylvania, praying the passage of a law authorizing the issue of \$100,000,000 in greenbacks, the same to be expended in the construction of railroads, telegraphs, public buildings, &c., and to aid deserving families in securing homes upon the public lands, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred the following bills and joint resolution, asked to be discharged from their further consideration, and that they be indefinitely postponed; which was agreed to, the Senate having already acted upon the subjects concerned:

A bill (S. No. 923) providing for the payment of all customs duties and all other debts due to the United States in legal-tender notes at par, except in cases where it is otherwise expressly stipulated on the face of the obligation or contract;

A bill (S. No. 836) to authorize the deposit of silver bullion or bars, and the issue of certificates therefor;

A bill (S. No. 625) to repeal certain acts and parts of acts relating to the taxation of the deposits of savings-banks;

A bill (S. No. 105) to provide lawful note and coin currency for the United States; and

A joint resolution (S. R. No. 2) authorizing the appointment of commissioners to ascertain on what terms a reciprocal treaty of commerce with the Republic of Mexico can be arranged.

#### WITHDRAWAL OF PAPERS.

On motion of Mr. SPENCER, it was

Ordered, That Margaret A. Spencer have leave to withdraw her petition and papers from the files of the Senate.

#### UTAH NORTHERN RAILROAD.

Mr. SAUNDERS. Mr. President, the bill that I seek to have considered was authorized by a unanimous vote of the Committee on Railroads and was asked to be adopted as a substitute for Senate bill No. 1284. I will state that that was gotten up purposely to eliminate all objections that had been raised by any person to the bill, and I think there is now no objection to it. It simply grants the right of way through the public lands, a thing that they cannot get along without. The route, I will state, is now across the line and in the Territory of Idaho, and they find no law there by which they can procure the right of way unless it be by the action of Congress. If this bill should pass, it will evidently secure the building of a large addition to that

road that will probably make not less than fifty miles the present year, and it cannot be done without it.

I will state that the Delegates from these Territories, who are interested in this bill, have been in here day after day asking that this thing be taken up, and I take it there will be no objection whatever so far as the substitute goes.

I understand I was correct in my statement as to the Senator from Michigan so far as the substitute goes. He probably wants to make a motion to add something to it. The Senate will judge whether there is any necessity for it.

The PRESIDENT *pro tempore*. The Senator from Nebraska moves to take up the Senate bill No. 1284. Is there objection to its present consideration? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1284) creating the Utah and Northern Railway Company a corporation in the Territories of Utah, Idaho, and Montana, and granting the right of way to said company through the public lands.

Mr. SAUNDERS. Read the substitute.

The PRESIDENT *pro tempore*. The substitute will be read.

The SECRETARY. It is proposed to strike out all after the enacting clause of the bill and in lieu thereof to insert the following:

That the right of way through the public lands of the United States and other privileges heretofore granted by law to the Utah and Northern Railroad Company are hereby modified and regranted so as to enable the Utah and Northern Railway Company and its assigns to build their road by the way of Marsh Valley, Portneuf River, and Snake River Valley, instead of by the way of Soda Springs and Snake River Valley as originally granted.

SEC. 2. And said company is hereby made a railway corporation in the Territories of Utah, Idaho, and Montana, under the same conditions and limitations and with the same rights and privileges that it now has and enjoys under its articles of incorporation.

Mr. EDMUNDS. Is that printed?

The PRESIDENT *pro tempore*. The substitute is not printed, but the bill is.

Mr. EDMUNDS. Where did it come from?

Mr. SAUNDERS. From the Committee on Railroads.

Mr. EDMUNDS. It ought to be printed.

The PRESIDENT *pro tempore*. The original bill has been printed.

Mr. SAUNDERS. The bill was printed, but on account of the hurry the substitute was not. It has been examined by every member of the Committee on Railroads, and I was authorized to report it.

The PRESIDENT *pro tempore*. The question is on the amendment which has been read as a substitute for the bill.

Mr. EDMUNDS. I wish the Senator from Nebraska would be kind enough to explain exactly what is meant. It speaks of regrating privileges and all that. I should like to have it explained.

Mr. SAUNDERS. This road is built under a charter taken under the general laws of the Territory of Utah which granted the right of way as far as they could, but they could not go any farther than their territorial line. The company now have built this road, I do not know to what extent, but probably over one hundred miles. At any rate, the road has entered the Territory of Idaho, and the company find no law there by which they can get the right of way for passing through the Territory unless they get it from Congress, and they have stopped work on account of that, because they say they are liable for damages at any time they may proceed. It grants nothing but that. The object is to build this road to Helena, Montana, and I believe, so far as I have inquired now of every person connected with the matter, both in the Senate and out of it, that there is no objection whatever so far as it has gone. I understand my friend from Michigan wants to add something to it, which he will propose at the proper time I suppose.

Mr. CHRISTIANCY. I propose to add an amendment reserving the power of amendment or repeal. That can be done after this amendment is disposed of.

Mr. SAUNDERS. I will state for the information of the Senator from Vermont that this matter has been examined thoroughly by every member of the committee, and by a number of those who are on the Committee on the Judiciary.

Mr. EDMUNDS. I beg the Senator to believe that I am not opposing this bill; I am only seeking to find out what it means. I wish to ask the Senator what this phrase means in this bill:

That the right of way through the public lands of the United States—

That I can understand—

and other privileges heretofore granted by law to the Utah and Northern Railroad Company are hereby modified and regranted.

What are those "other privileges?"

Mr. SAUNDERS. Nothing more than that granted, as I understand, by the act under which they have built the road so far as it has gone.

Mr. PADDOCK. I ask my colleague if it is not true that there is a slight change of line from the original line?

Mr. SAUNDERS. I suppose that whatever it was it was to give them so much land for depot purposes.

Mr. EDMUNDS. It would be a good thing for the committee and for the Senate to know exactly what it is that we are legislating upon. Unless I am mistaken, the legal effect of this will be this, Congress undoubtedly having power over territorial legislation, "the other privileges heretofore granted by law" will cover not only what Congress has granted but what the Territory has granted; and if the Ter-

ritory has granted them a perpetual charter Congress has a right by this act to make it a perpetual charter under an act of Congress that will live through all State legislation and everything else. This act saying that all the other privileges heretofore granted by law to this company are now regranted is a pretty broad declaration unless you know exactly what those "other privileges" are. That is all I have to say about it.

Mr. TELLER. I should like to say that this act of incorporation is under the general law of Utah. There can be no special privileges granted to this road that are not granted to every other road in the Territory of Utah. As stated by the Senator from Nebraska, when the company came to the Idaho line there was no power in the Idaho Legislature to grant them a charter, and there was no general act under which they could be incorporated as there was in Utah. That is the condition that this road finds itself in.

Mr. HOAR. Will the Senator allow me to ask him a question and to preface it by simply one sentence, in order that he may see what I am driving at?

We have in many instances granted railroad charters, in some instances from five hundred to one thousand miles of way through Territories which are hereafter to make mighty States, without reserving the power of the United States or territorial or State control, so that there is no power of exercising the ordinary right of making them remove from the populated part of the city or regulations as to crossings under the ordinary railroad legislation. The Senator sees my point. Of late, whenever one of these charters has come up, I have insisted that there should be incorporated in the charter a provision that it shall be subjected to all the laws of the nation or of the State when the Territory becomes a State. I desire to inquire whether the charter which this bill reaffirms or grants is subject to that control. Of course the Senators representing new Western States will agree that it shall be done.

Mr. TELLER. I understand that when a railroad company is incorporated under general act it is subject to the laws of the State or the laws of the Territory. Whenever the Territory shall become a State it will become of course subject to the laws of the State. If anybody desires to say that they shall be subject to the laws of the State when the State is created let that be incorporated in the bill, if it is deemed necessary.

The PRESIDENT *pro tempore*. The question is on agreeing to the substitute reported from the Committee on Railroads.

Mr. COCKRELL. Is there any absolute necessity, I ask the Senator from Nebraska, for retaining the words—

Under the same conditions and limitations and with the same rights, privileges, and franchises as it now has and enjoys in the Territory of Utah?

Mr. SAUNDERS. That does not affect anything. It only says, whatever is there, leave it there.

Mr. COCKRELL. We do not know what it is.

Mr. SAUNDERS. We do not ask to change anything.

Mr. COCKRELL. I do not think there was any very full explanation given in answer to the Senator from Vermont of what those rights were, and I confess I do not like to grant rights by the General Government unless I know precisely what they are. The right of way is given, and it is made the same kind of a corporation in Idaho and Montana as it is in Utah, and I suggest that those words be stricken out. They cannot be essential.

Mr. SAUNDERS. Nothing is more common than in changing a bill to allude to it and say whatever has been heretofore reserved is now reserved in this bill. It does not add anything.

Mr. COCKRELL. It adds a great deal in Montana and Idaho, because they have no rights there at all now. As an original proposition we might not be willing to give them all the rights, privileges, &c., which they have in Utah, if it were left to us in the beginning; but we are confirming them in those privileges, whatever they are, and then we are making the same things apply to Idaho and Montana. Surely they are not necessary to the existence of the corporation, or anything of that kind.

Mr. TELLER. I think I can answer the Senator from Missouri. When he understands the true condition, he will see that there is no necessity for striking out this provision and there is some necessity for keeping it in.

As I said, this company has no right to build its road in Idaho. It cannot build any portion of its line there, because it is not possible to get a charter either by any law existing in Idaho general or by special legislation.

Mr. COCKRELL. I understand that.

Mr. TELLER. Now, Utah, under the restriction imposed upon the Territories by Congress in 1864, made a provision for a general incorporation law which conferred no special privileges upon any railroad incorporated under it. There are a great number, at least several railroad companies incorporated under that general law in operation. Congress has approved that general law of Utah and said that there was nothing in it but what was proper and suitable to put in it, and this company gets no greater rights than the other companies. Now we are simply giving this company in Idaho and Montana the same rights that it has in Utah, which are the simple rights to build a railroad and operate it in the simplest possible form.

I do not see how we can get any better at the point to give them the power to build a railroad than by simply saying that we extend this

Utah charter over this line. The Representatives at the other end of the Capitol of the Idaho people and the Montana people are agreed to this legislation, approve it, and the parties who propose to build the road say that if the line is changed they will build it. It is a matter of great public importance to the people living beyond the line of the road.

Mr. COCKRELL. I do not want to obstruct the passage of the bill; I only want to get it as it should be.

Mr. TELLER. It confers no privileges upon them any more now than such as are conferred by the general act on our statute-book which says any railroad company may have the right of way over the public lands. That is all there is of it.

Mr. HOAR. Will my friend from Colorado listen to this amendment which I think the friends of the bill will accept?

*Provided*, That said corporation shall at all times hereafter be subject to all the laws and regulations in relation to railroads of the United States or of any Territory or State through which it may pass.

Mr. TELLER. I am not the representative of this measure. I have never been consulted by the railroad people at all, but I can see no objection to that and I should be quite willing to vote for it.

Mr. HOAR. That is the substance of what has been put on these grants within the last few years.

Mr. PADDOCK. That is a very proper amendment.

Mr. SAUNDERS. While I cannot accept the amendment on behalf of the committee because I am instructed to present the measure as it is, I see no objection to it whatever. If any member of the committee has any objection he can make it known.

Mr. HOAR. I move to add this to the committee's substitute, to perfect it before it is voted upon.

The PRESIDENT *pro tempore*. The question will first be put on the substitute unless the Senator desires to amend the substitute.

Mr. HOAR. Yes, sir, I move this as an addition to the substitute.

The PRESIDENT *pro tempore*. The question will be on the amendment to the substitute, which will be read.

The Secretary read as follows:

*Provided*, That said corporation shall at all times hereafter be subject to all the laws and regulations in relation to railroads, of the United States, or of any Territory or State through which it may pass.

The amendment to the amendment was agreed to.

Mr. COCKRELL. I want to propose another amendment to the amendment just adopted, offered by the Senator from Massachusetts; and that is that suits against said corporation may be instituted in the courts of said Territories or either of them having jurisdiction by the laws of such Territories.

Mr. PADDOCK. There is no objection to that.

Mr. CHRISTIANCY. Nobody can object to that.

Mr. SAUNDERS. I have no objection personally. I represent the committee, and therefore cannot accept the amendment for the committee, but I have no objection to it.

Mr. MITCHELL. I should like to hear the amendment reported. The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Missouri to the committee's amendment.

Mr. COCKRELL. Let my amendment come in just after the amendment of the Senator from Massachusetts.

Mr. PADDOCK. To be in the nature of a second proviso, I suppose.

Mr. COCKRELL. Yes, sir. It is to add:

And suits against said corporation may be instituted in the courts of said Territories, or either of them, having jurisdiction by the laws of such Territory.

The amendment to the amendment was agreed to.

Mr. CHRISTIANCY. I suppose the amendment which I propose is as well here as to wait till a later stage. I move to add an additional section:

SEC. 3. Congress may at any time add to, alter, amend, or repeal this act.

Mr. SAUNDERS. I make the same statement, that while I cannot accept the amendment for the committee I have no objection to it personally.

The amendment to the amendment was agreed to.

Mr. PADDOCK. I suggest that the amendment offered by the Senator from Missouri shall be corrected in this, that suits should be authorized to be brought by the company as well as against it. Say "by and against."

The PRESIDENT *pro tempore*. That modification will be made if there be no objection. The Chair hears none, and the amendment will be so modified. The question is on the amendment of the Committee on Railroads as amended.

The amendment, as amended, was agreed to.

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

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

CHIEF CLERK OF THE SENATE.

Mr. WINDOM. I ask now to take up the resolution extending the time of adjournment.

Mr. HOWE. I wish to offer a resolution relative to the organization of the Senate.

Mr. WINDOM. I yield to the Senator from Wisconsin.

Mr. HOWE. I offer the following resolution relating to the organization of the Senate, and ask for its present consideration:

*Resolved*, That William E. Spencer be appointed Chief Clerk in place of William J. McDonald, deceased.

The resolution was considered by unanimous consent, and agreed to.

FINAL ADJOURNMENT.

Mr. WINDOM. I move that the Senate now proceed to the consideration of my resolution relative to the final adjournment.

The motion was agreed to; and the Senate proceeded to consider the following resolution, submitted by Mr. WINDOM yesterday:

*Resolved*, (the House of Representatives concurring,) That the time fixed by the two Houses of Congress for the final adjournment of the second session of the Forty-fifth Congress is hereby extended to twelve o'clock m. on Thursday, the 20th day of June; and at that time the President of the Senate and the Speaker of the House of Representatives shall adjourn their respective Houses without day.

Mr. WHYTE. I move to strike out "Thursday, the 20th," and insert "Wednesday, the 19th."

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

Mr. WINDOM. I hope the amendment proposed by the Senator from Maryland will not prevail. I do not believe it will be possible to conclude the business decently and in order by the time fixed in that amendment. I know it is utterly impossible to pass all of the appropriation bills by Monday noon, and I think that the shortest time the work can be done well is that named in the resolution proposed yesterday.

The House of Representatives sent to the Senate the sundry civil bill about one o'clock, I think, yesterday. It had occupied some two, or three, or four months—I do not know how long—in the other House. It comes to us within two days of the time fixed for adjournment. The Committee on Appropriations have used every effort in their power to be able to report it in time to adjourn on Monday. They have made an honest effort to progress with the bill. The session of the committee commenced yesterday about four o'clock, and we continued in session until midnight, and resumed our session again at nine o'clock this morning, and I can assure Senators that not a minute's time was lost. The result of that labor is that we have succeeded in considering nearly one-half of the amendments proposed by Senators to the bill. More than half I think of the amendments are yet to be considered. I speak merely of the amendments proposed by Senators. In addition to that there are from one hundred and fifty to two hundred packages of papers from the various Departments, enough to fill a half-bushel basket, that have not been opened and read yet by the committee.

If any Senator will step into the Appropriations Committee room and look at what has to be done in order to complete the bill, I am entirely satisfied that he will conclude with me that Thursday noon is not too short a time to transact that business decently and in order. We have not touched the bill itself yet. We have only considered the amendments proposed by Senators, and, as I said, have not yet half completed those. We have had a great many interviews from Senators desiring to give the reasons why amendments should be adopted. It is of course impossible to close the doors against such suggestions. The bill as it came from the House is extremely unsatisfactory to a great many members, and the committee has been quite liberally patronized from the other end of the Capitol also. It can hardly be expected that the Committee on Appropriations can close its doors against the members of either House who desire to give any information about the bill.

Now, we are willing to work as many hours as it is possible, consistently with a fair consideration of the bill, to devote to it; but it cannot be done by the time named for adjournment, and I do not think it can be done by Wednesday noon. It will require twenty-four hours, or at least twelve hours I will say, to be within limits, to prepare the bill by the clerks after the conference committee have agreed. It will be utterly impossible for the Committee on Appropriations to report the bill before Monday, even if they should spend the Sabbath in its consideration. Now, I do not think the public exigencies require that we should work all day to-morrow. If a poor wood-sawyer on your streets were to undertake to earn a quarter of a dollar to supply his family with food by sawing wood to-morrow he would be arrested, under the laws which you yourselves have made; but you propose to insist that the Senate shall remain in session all day to-morrow when there is no earthly necessity for it. We can just as well adjourn Wednesday or Thursday as at any other time, and I would say simply, in conclusion, that if we do adjourn on Monday the bill will not be passed.

Mr. BECK. I desire only to add to what the chairman of the Committee on Appropriations has said that I have been already furnished by the subcommittee on the sundry civil bill, of which I am a member, with thirty-three pages of memoranda, which I hold in my hand, to advise with Senators and Representatives and the Departments as to the necessity for proposed appropriations. I am going around among Senators to ascertain the facts, because I desire enlightenment, and I have not got half through yet. I am prepared to say that, although I am willing to work all day Sunday and all night Sunday night if necessary, Presbyterian as I am, we cannot report this bill before Monday morning and hear the Senators who have presented amendments that they think indispensably necessary—

Mr. CONKLING. Will the Senator from Kentucky speak so that we can hear what he says?

Mr. BECK. I beg pardon. I was speaking to my friend from Maryland, [Mr. WHYTE,] not thinking that I ought to speak loud enough to be heard all over the Senate Chamber.

I desire to say that the number of amendments presented by Senators and by members of the House, and the important character of those amendments and the respect due to the gentlemen who have presented them, make it absolutely impossible for the committee to present the bill to the Senate before Monday, even if we work all day and all night from now until then—as I suppose we shall have to do. I believe it will be better for the public business—better for Senators—if they will agree to the proposition made by the Committee on Appropriations to adjourn on Thursday noon instead of endeavoring to adjourn at Monday noon. We may possibly be able to get through by Wednesday. The clerk of our committee (one of the most active young men I ever saw) is working day and night on the legislative, executive, and judicial appropriation bills, on which we disagreed yesterday, but perhaps we shall be able to agree to-day; and if we do, there are over nine hundred amendments to prepare that will occupy his time almost all day to-morrow. He is at work now on the Army appropriation bill, of which the Senator from California [Mr. SARGENT] has charge; and that is nearly through. Then he has to take up the sundry civil bill; and it seems to me it is a physical impossibility (for we have to rely upon his intelligence) to do this thing in order before Thursday morning. However, if the effort be made to get through by Wednesday, the Committee on Appropriations will do its best. We have worked all day and night since Monday night until twelve o'clock at night, and we are willing to work until twelve o'clock every night; but there is a limit to human endurance and a limit to the possibility of accomplishing work. Up to that limit we are willing to go; but I think it will take till Thursday to get through satisfactorily.

Mr. WITHERS. I wish merely to make a suggestion to the subcommittee, whether the postponement of the time of adjournment will not add to rather than lessen their difficulties. The number of amendments which are being precipitated upon the Senate to the sundry civil bill demonstrates the fact that the longer we remain in session the more they will accumulate. This is a great omnibus bill, and every proposition for spending money that has ever come before either House will be precipitated upon this bill, and the longer we remain in session the more they are accumulated; and if the committee adopt the principle of investigating every one of these cases and waiting for papers from the Departments, they will be here until next fall before they get through with the sundry civil bill. That is my prediction. I am satisfied from my observation of the work of this committee that they have done all that mortal man could do; and yet the amendments accumulate upon them more rapidly than they can possibly consider and dispose of them. That being the case, I do not see why we should postpone the time of adjournment in order to permit the still further accumulation of this business.

Mr. BECK. If the Senate would pass an order that no more amendments shall be sent to us, it might relieve us somewhat.

Mr. SARGENT. I think the satisfactory condition of the business now before the Senate is owing to our having agreed to the resolution as amended by the House to adjourn on the 17th. My idea at that time was, that by fixing the time, we should adjourn about the time fixed. I am very well satisfied now to have the time extended a day or two, and I believe we can finish the business with much more comfort to ourselves by that course than if we endeavor to adjourn on Monday, which will require us to sit all night to-night and all day Sunday and all night Sunday night, which is more perhaps than human endurance can stand. The sundry civil bill, which is the principal business remaining to be finished, would not be so satisfactorily passed as if we took a little more time. I should like to say to the chairman of the committee, however, that we can accomplish all this by Wednesday noon, it seems to me, though I will not antagonize him by making that motion.

Mr. MORRILL. It has been already made.

Mr. SARGENT. I shall vote with him upon that matter as he thinks best. If he thinks we cannot really in justice to that bill get through before Thursday, I shall vote with him; but I think we can do it by Wednesday.

Mr. WINDOM. I do not wish to be persistent about this matter. I am satisfied we cannot get through by Wednesday; at least I fear we cannot. I am willing to try.

Mr. WHYTE and others. Let us try.

Mr. SARGENT. Suppose we try.

Mr. WINDOM. I would not like to suggest Wednesday and then have to come in and ask for another extension.

Mr. SARGENT. The Senate will remember that at the last long session, after we fixed the adjournment, there were three continuances, and the last continuance was of two hours. The House easily accommodated itself to that condition of things. Sometimes we continue a day, thinking we can get through.

Mr. WINDOM. Wednesday seems to be preferred by a considerable number of Senators, and if the Senate adopt that amendment we shall do our best. That is all I can say. We will try.

Mr. COCKRELL. Do I understand the Senator from California

now to say that the Senate cannot transact its necessary business before Wednesday?

Mr. SARGENT. I think it will take that time to properly consider the sundry civil bill and pass it, and then have a conference of the two Houses upon it. There will be necessarily a great many amendments to it if Senators are as persistent in supporting their amendments as they are in suggesting them. It is a very long bill, and has to be enrolled after both Houses have finally acted. I think it will take until Wednesday. We cannot possibly get through with it in the Committee on Appropriations before to-morrow night, and we shall have to take all the time between now and then to do it, neglecting our other duties. Therefore I think under the circumstances we had better continue the session for a couple of days.

Mr. COCKRELL. When this question was before the Senate hitherto I was disposed to oppose fixing the day of adjournment on the 17th of this month, believing then with the chairman of the committee that it would be impossible to transact the business of the Senate. I must confess that the statements of the Senator from California encouraged me to believe that we should certainly get through. Now I have set my heart on adjourning on the 17th, and I dislike extremely to have the Senator from California come in and shake that confidence and trust which was created in my mind by his action.

Mr. SARGENT. I know how confiding my friend from Missouri is, and I am very sorry to crush his budding affections; but I will say to him that if we did not fix the time for the 17th or some definite period we should not be able to adjourn before the middle of July. The effect of fixing the time for the 17th has been that the Senate has met at eleven o'clock since that time, and has sat to six or seven at night; we have been kept down to the Calendar and nearly cleared it off, none of which things would have happened if we had left the matter open without fixing the day of adjournment. Therefore that move which I made I do not take back. I expected then that we might have to extend the time a couple of days.

Mr. WINDOM. At the time this question was under consideration before, when the day of adjournment was fixed, it was understood in consultation with some members of the Appropriations Committee of the other House that the sundry civil bill would be sent to the Senate by Saturday of last week at the outside, and it was generally believed it would be sent here on Friday. Instead of that it reached here on Friday of this week, one week later than was then expected.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maryland [Mr. WHYTE] to strike out "Thursday, the 20th," and insert "Wednesday, the 19th."

The amendment was rejected; there being on a division—ayes 25, noes 26.

The PRESIDENT *pro tempore*. The question recurs on the resolution.

The resolution was agreed to; there being on a division—ayes 35, noes 9.

#### DISTRICT SPECIAL IMPROVEMENT TAXES.

Mr. SARGENT. During the morning hour, and while I was compelled to be absent on a committee of conference, and I think when there was no quorum of Senators here, the Senator from Delaware, [Mr. BAYARD,] perhaps choosing his time inadvertently, had by unanimous consent the consent of the Senate to recall from the House a bill in reference to assessments in the District of Columbia. The chairman of the Committee on the District of Columbia was not here, and I believe no member of the committee. I was not here myself. I proposed the substitute which is now the bill, which is very fair and just, and I should certainly have objected to the motion at that time, for it was not in order, and required unanimous consent, because the time for a reconsideration of the vote by which the bill was passed had gone by. I should like to know whether there is any method of rescinding the order by which the bill is to be recalled from the House. I move to reconsider the vote by which the bill was ordered to be recalled from the House.

The PRESIDENT *pro tempore*. The Chair supposed the Senator from Delaware was in order within the rules of the Senate. The rule of the Senate requires a motion to reconsider to be made within two days after the day upon which the vote was taken, which would be three days including the day on which the Senate had taken action. The Chair is informed that this is beyond the time, and hence a reconsideration is not permitted by the rules. The Senator from California now moves to reconsider the vote by which the return of the bill was asked. The question is on that motion.

Mr. WALLACE. I want to know whether the message has been sent to the House?

Mr. SAULSBURY. My colleague is not present.

Mr. SARGENT. I was not present at the time he made his motion.

Mr. SAULSBURY. I ask that the vote be not taken on a matter of this importance in his absence.

Mr. ROLLINS. There was but little scruple about taking the vote this morning during the absence of nearly the entire Senate.

Mr. SAULSBURY. My colleague was interested in the matter, of course, or he would not have made the motion he did.

Mr. SARGENT. Then I will merely enter the motion to reconsider, provided the Senate will order a recall from the House of the request for the bill. That leaves it *in statu quo*. Will the Senator agree to that?

Mr. SAULSBURY. I have no authority to agree to that; but I think action ought not to be taken in my colleague's absence.

Mr. SARGENT. The motion could not have been made by the Senator if those interested had been present.

The PRESIDENT *pro tempore*. If the Chair had been advised that it was beyond the time for a reconsideration the Chair could not have entertained the motion.

Mr. INGALLS. Could the Chair entertain it under any circumstances when the rule explicitly states that a motion to reconsider must be entered on the same day or within the next two days of actual session thereafter, and that rule being established for the protection of minorities, and not for majorities? Can the idea be entertained for an instant that that motion was in order? The action of the Senate was improvident; it was outside the rule; it had no effect; and undoubtedly the House ought to be advised that they are not requested to return the bill.

The PRESIDENT *pro tempore*. The Chair has already said that the Chair took it for granted the motion was made within the time allowed by the rules.

Mr. INGALLS. The bill passed on the 11th of June.

The PRESIDENT *pro tempore*. So the Chair has been informed since; but the Chair stated in answer to the Senator from California, before the Senator from Kansas rose, that it was beyond the time, and the Chair would not have entertained the motion had he known that it was beyond the time. The Senator from California now moves to correct it by reconsidering the vote.

Mr. WALLACE. By entering a motion to reconsider, I understand.

Mr. SARGENT. And recalling the resolution.

The PRESIDENT *pro tempore*. The Senator from California enters a motion to reconsider the vote by which the recall of the bill from the House was requested.

Mr. SARGENT. And that the House be notified that the Senate recalls its request for the return of the bill. That leaves it open. Otherwise the House will return the bill to us.

Mr. WALLACE. That does not follow at all. If the House be notified that action is taken in the Senate which may result in the reconsideration of its action, that it seems to me ought to satisfy the Senator from California.

Mr. SARGENT. What is the proposition?

Mr. WALLACE. Instead of taking action reconsidering the demand, let the House be notified of the proposed reconsideration. That, it seems to me, ought to satisfy the Senator.

Mr. SARGENT. Very well.

The PRESIDENT *pro tempore*. The motion to reconsider is entered.

Mr. SARGENT. And let the House be notified that the Senate has taken this action.

The PRESIDENT *pro tempore*. The House will be notified that the Senate has taken action in that particular.

Mr. SARGENT. And that the House do not return the bill.

The PRESIDENT *pro tempore*. And that the House do not return the bill until further advised.

Mr. ROLLINS. I think there is an error here. There was no motion to reconsider entered, as I understand, at all in this case. There was a simple request to return the bill as it passed the Senate. It seems to me this motion was passed when there were but very few members in the Senate. Those who were interested in the bill and who had charge of it in the Senate were not present at all.

The PRESIDENT *pro tempore*. The Chair will reply to the Senator from New Hampshire, and that was the recollection of the Chair when his attention was first called to it, that the simple motion was that the House be asked to return the bill, no motion having been entered to reconsider the vote on its passage. The Chair applied to the Secretary and found he had entered a motion to reconsider. Of course the Chair yielded to the record; but on now conferring again with the Secretary the Secretary is satisfied that such a motion was not made; and this verifies the recollection of the Chair and the recollection of the Senator from New Hampshire.

Mr. ROLLINS. It is too late for a motion to reconsider on the bill. If the bill is recalled to the Senate it is too late to make a motion to reconsider when the bill is here, under the rules of the Senate.

Mr. WALLACE. But, Mr. President, the request of the Senate as the action of this body has gone to the House. Whether it be correct or not is to be determined when we shall take the question into consideration. Now, in the absence of the Senator from Delaware, [Mr. BAYARD,] and for that reason alone, I asked that the motion of the Senator from California to reconsider the request be entered, and that the House be notified that such proceedings are being taken by the Senate as may result in a reconsideration and recall of that request, and let it remain in that status until the Senator from Delaware returns. It seems to me that is the fair mode.

Mr. SARGENT. That will do. I am satisfied with that.

The PRESIDENT *pro tempore*. Now the Chair understands that the record shows that a motion to recall the bill was made by the Senator from Delaware, and the Senate concurred in that motion. Now the Senator from California moves to reconsider that motion, and that the House be notified that the Senate has entered a motion to reconsider which may result in a refusal to require the return of the bill.

Mr. INGALLS. Why should not that matter be disposed of now?

The PRESIDENT *pro tempore*. The Chair cannot say.

Mr. WALLACE. I simply appeal to the Senator from California and the Senator from Kansas on the ground that the Senator from Delaware who made this motion is absent from the Chamber.

Mr. INGALLS. He made a motion which he had no right to make under the rule, and he took nothing by it.

The PRESIDENT *pro tempore*. The Chair will remind the Senator from Kansas that any Senator has a right to ask for the return of a bill.

Mr. INGALLS. That I deny. There never can be a request made to recall a bill from the House of Representatives unless it is preceded by a motion to reconsider, and the rule so expressly states.

Mr. WALLACE. That question is to be determined, it seems to me, when we have the bill up.

Mr. INGALLS. The rule is explicit. If the Chair will refer to Rule 20, page 136 of the Manual, there cannot be any question about it. It is not susceptible of two interpretations. The language is:

When a bill, resolution, report, amendment, order, or message, upon which a vote has been taken, shall have gone out of the possession of the Senate and been communicated to the House of Representatives, the motion to reconsider such vote shall be accompanied by a motion to request the House to return the same to the Senate.

There is plainly no method by which a request can be made upon the House of Representatives for the return of a bill that has once been acted upon here unless it is accompanied by a motion to reconsider. To allow any other rule than that to prevail would place the legislation of this body at the control of any single member who may see fit to interpose in this manner. I submit that as a question governing the transaction of business we ought to vote now upon this proposition; and if the Senator from Delaware made a motion that he had no right to make under the rule he took nothing by it; it was null and void. The Chair ought so to hold.

Mr. WALLACE. It seems to me that the mere statement of the fact by a Senator that unanimous consent of the Senate to reconsider was asked for—

Mr. INGALLS. There were half a dozen Senators here, I am told, in their seats this morning. It was the very instant of the convening of the Senate. Nobody's attention was called to it. If it had been, of course there would have been objection.

Mr. ROLLINS. Suppose this practice prevails here in the Senate that the moment the Senate is called to order any Senator may object to a measure already passed, a Senator may in the absence of a quorum, with a very few perhaps present, secure the adoption of some such order, what security is there here?

Mr. WALLACE. The Senator from New Hampshire may be entirely correct when we come to consider the proposition he asserts; but until we get the proposition before us itself, it seems to me it is premature; for if this body has passed a request which request has gone to the House and is in the hands of the House, it is an expression of the Senate. We now enter a motion to reconsider it, and we stop all proceedings upon it. If that motion to reconsider the action had at the request of the Senator from Delaware prevail, then the argument of the Senator from Kansas will be perfectly competent upon the main question; but surely in the absence of the Senator from Delaware, who got the consent of the Senate or the paper would not have gone, the main question should not be considered. I trust that with the assent of the Senator from California given to this condition of affairs, it will be permitted to remain.

The PRESIDENT *pro tempore*. The Senator from California has entered a motion to reconsider. No other motion is before the Senate. The morning hour has expired.

#### HEAD-MONEYS.

Mr. CONKLING. The Senate yesterday acted favorably on a House bill legalizing the collection of head-moneys. Its number, I think, was 5137. I wish to move to reconsider the vote by which the bill was passed, there being parties of respectability who wish to be heard and the bill having been acted upon with unusual haste owing to the stage of the session. The bill has not yet been returned to the House, I am informed, and therefore I suppose a motion to reconsider covers my purpose.

The PRESIDENT *pro tempore*. The Senator from New York moves to reconsider the vote by which the bill was passed.

Mr. COCKRELL. What is the bill?

Mr. CONKLING. It is a bill legalizing the collection of certain head-moneys on passengers, which was supposed to apply only to the port of New York, although it may cover cases in California, Louisiana, and Massachusetts. There are certain persons in New York who say that they want to be heard in regard to it, and owing to the great haste in which it was acted on, I think it right to enter this motion to reconsider to give them an opportunity to forward any papers they choose or to come themselves.

The PRESIDENT *pro tempore*. The Senator does not desire to have the motion considered, but only entered.

Mr. CONKLING. I will not insist on the motion being acted upon now. I may want to call it up at a future time.

The motion to reconsider the vote by which the bill (H. R. No. 5137) to legalize the collection of head-moneys already paid was passed was entered.

#### INVESTIGATION EXPENSES.

Mr. WINDOM. I now move to proceed to the present considera-

tion of the bill appropriating money for expenses of the investigations now in progress.

The motion was agreed to; and the bill (H. R. No. 5053) to provide for the expenses of the select committee on alleged frauds in the late presidential election was considered as in Committee of the Whole. It appropriates \$20,000 to defray the actual expenses necessarily incurred by the select committee of the House of Representatives appointed under resolution of the House of May 17 and under that resolution and the resolution of May 22 following directed to investigate alleged frauds in the late presidential election, said to have been committed in Louisiana and Florida, or that may be charged to have been committed in any other State, the appropriation to be added to the contingent fund of the House of Representatives, and to be disbursed upon vouchers approved by the chairman of the committee.

The bill was reported from the Committee on Appropriations with amendments.

The first amendment was, in line 16, after the word "committee," to insert "or of any subcommittee."

The amendment was agreed to.

The next amendment was to insert, as section 2, the following:

SEC. 2. That the sum of \$20,000 be, and the same hereby is, appropriated out of any money in the Treasury not otherwise appropriated; which sum shall be placed to the credit of the contingent fund of the Senate, and be applied toward defraying the expenses of such investigations and inquiries as have already been or may hereafter be directed by the Senate during the period of the Forty-fifth Congress; said expenses to be vouched and accounted for in the same manner as in the case of the other contingent expenses of the Senate.

The amendment was agreed to.

Mr. WINDOM. I move the following as an amendment to the bill, not from the Committee on Appropriations, but upon my own responsibility:

SEC. 3. That the sum of \$10,000 be, and the same hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, to be used, under the direction of the Attorney-General, to defray any expenses that may be incurred by the Department of Justice for the detection and punishment of any crime committed against the United States in the affairs or in the course of the investigations mentioned in this act.

I think there can be no objection to that.

The amendment was agreed to.

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

It was ordered that the amendments be engrossed, and the bill read a third time.

The bill was read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills:

- A bill (S. No. 27) for the relief of Amos B. Ferguson;
- A bill (S. No. 334) for the relief of William Bowlin, late of company L, Second Arkansas Cavalry;
- A bill (S. No. 547) granting a pension to Caroline M. Egbert;
- A bill (S. No. 686) granting a pension to Mary Emma Baptist and Daisy Baptist, minor child;
- A bill (S. No. 704) granting a pension to Grace Aikins;
- A bill (S. No. 871) granting a pension to William Emerson;
- A bill (S. No. 712) granting a pension to William Loudon;
- A bill (S. No. 76) granting a pension to Mary Ann McFarland;
- A bill (S. No. 221) granting a pension to Mary Kirby Smith Eaton during her widowhood;
- A bill (S. No. 535) granting an increase of pension to Theodore Gardner;
- A bill (S. No. 394) to place the name of Daniel H. Kelly upon the muster-roll of Company F, Second Tennessee Infantry;
- A bill (S. No. 594) for the relief of William W. Speirs, late assistant surgeon, United States Army;
- A bill (S. No. 744) granting a pension to Sarah McCooley;
- A bill (S. No. 849) granting a pension to James C. Downer;
- A bill (S. No. 902) for the relief of Carl Jussen;
- A bill (S. No. 1029) for the relief of John M. Lord;
- A bill (S. No. 1068) for the relief of T. B. Kelly;
- A bill (S. No. 1165) granting a pension to Mary McAdams;
- A bill (S. No. 1206) granting a pension to Emily Hughes, *alias* Burch;
- A bill (S. No. 1275) granting a pension to John Charles Black; and
- A bill (S. No. 1332) granting a pension to John G. Merritt.

#### ENROLLED BILLS SIGNED.

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

- A bill (H. R. No. 739) for the relief of Henry Plowman;
- A bill (H. R. No. 977) to relieve the political disabilities of John Green, sr., of Alabama;
- A bill (H. R. No. 1638) to remove the political disabilities of Albert Miller Lea, of Navarro County, Texas;
- A bill (H. R. No. 1897) to remove the political disabilities of W. E. Evans, a citizen of Louisiana;
- A bill (H. R. No. 2242) for the relief of William T. Malster, of Baltimore, Maryland;

A bill (H. R. No. 3276) to remove the political disabilities of William C. Whittle, of Virginia;

A bill (H. R. No. 3314) to remove the political disabilities of John T. Mason, of Maryland;

A bill (H. R. No. 3548) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871;

A bill (H. R. No. 3978) to authorize the Barataria Ship-Canal Company to construct and operate a ship-canal from New Orleans to the Gulf of Mexico, through the lands and waters of the United States, and to grant to said company the right of way for that purpose;

A bill (H. R. No. 4550) to remove the political disabilities of Thomas L. Moore, of the State of Virginia;

A bill (H. R. No. 4568) to remove the political disabilities of Robert T. Chapman, of Wharton County, Texas;

A bill (H. R. No. 4802) for the construction of a public building for use by the United States Government in the city of New York;

A joint resolution (H. R. No. 81) asking for investigation in the case of Edward O'M. Condon;

A joint resolution (S. R. No. 36) authorizing the Secretary of War to deliver to the city of Winterset, Madison County, Iowa, four cannon and carriages for the soldiers' monument in said city; and

A joint resolution (S. R. No. 37) authorizing the Secretary of War to turn over to the governor of North Carolina such tents, poles, and pins as he may require for the use of the militia and volunteer organizations of the State at their summer and fall encampment.

[In the list of enrolled bills was included the bill (H. R. No. 5137) to legalize the collection of head-moneys already paid. When the title of the bill was read,

Mr. CONKLING. That is the bill in which a motion to reconsider has been entered and I suggest that the signature of the bill ought not to be announced after the motion to reconsider had been made.

The PRESIDENT *pro tempore*. The Chair will withhold it.]

JOHN M. KNOTT.

The PRESIDENT *pro tempore*. The Calendar will now be taken up. The Secretary will report the first case on the Calendar at the point where its consideration was left off.

The bill (H. R. No. 3980) to confirm the title to the northeast quarter of the northwest quarter of section 7, township 81 north, range 4 east of the fifth principal meridian, Clinton County, Iowa, was considered as in Committee of the Whole.

The preamble recites that John M. Knott presumed that he had applied for and entered from the United States on the 29th of February, 1848, the northeast quarter of the northwest quarter of section 7, in township 81 north, range 4 east of the fifth principal meridian, in Clinton County, Iowa; that he soon thereafter entered into possession and occupancy of the land, and has continued to occupy it through his grantees to the present time; that his application, through mistake, described the land as being in range 3 east, instead of 4 east; that the Department of the Interior, under letter dated February 19, 1876, has decided that the land in range 4 is within the limits of the Iowa Central Air-Line (now the Cedar Rapids and Missouri River) Railroad, and that the tract inured to the road by virtue of the grant of land to the railroad, under the act of Congress approved May 15, 1856; and that the railroad company, by deed dated November 17, 1876, now on file in the General Land Office, has released and surrendered unto the United States all the right and claim the company now has or may acquire to the northeast quarter of the northwest quarter of section 7, township 81 north, range 4 east of the fifth principal meridian, upon the express condition that the United States will issue a patent unto John M. Knott for the land last described, to the end that his grantees may be protected in their rights. The bill therefore proposes to accept the deed to the United States from the Cedar Rapids and Missouri River Railroad to the land named, and to issue a patent to John M. Knott for the same.

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

BANKS IN WASHINGTON TERRITORY.

The next bill on the Calendar was the bill (S. No. 1217) to amend section 1924 of the Revised Statutes.

Mr. CONKLING. What is that? I ask for the reading of the opening lines of that bill again.

The bill was read.

Mr. MORRILL. I object to the consideration of that bill. Of course it is in the power of the people of the Territory of Washington to organize banks under the national banking law if they want them.

The PRESIDENT *pro tempore*. The bill will be passed over.

JOHN EATON.

The next bill on the Calendar was the bill (H. R. No. 720) for the relief of John Eaton; which was considered as in Committee of the Whole. It provides that John Eaton, late a private in Company K, of the Eighteenth Regiment of Wisconsin Volunteer Infantry, who from such service deserted June 25, 1865, shall be fully restored and stand as having been honorably discharged or mustered out of the military service of the United States on the 25th of June, 1865, and shall be entitled to the pay, bounties, and benefits as if he on that

day had been lawfully discharged or mustered out of said military service of the United States.

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

JOHN E. WILLIAMSON.

The next bill on the Calendar was the bill (H. R. No. 2396) for the relief of John E. Williamson; which was considered as in Committee of the Whole. It provides for paying to John E. Williamson, late a member of Company B, Thirty-seventh Regiment of Wisconsin Volunteer Infantry, the full pay of a second lieutenant from the 7th of March, 1865, to the 8th of May, 1865, inclusive, less the pay during that time of a first sergeant in the infantry service, which he has received.

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

RESERVATION OF NEW SAN DIEGO.

The next bill on the Calendar was the bill (S. No. 1192) to authorize the leasing of a portion of the military reservation of New San Diego, in the State of California; which was considered as in Committee of the Whole.

The amendment reported from the Committee on Military Affairs was, in line 4, after the word "lease," to insert:

If in his opinion the same shall be advantageous to the Government, and.

So as to make the bill read:

That the Secretary of War be, and he is hereby, authorized to lease, if in his opinion the same shall be advantageous to the Government, and upon such terms and conditions as may be decided by him to be most conducive to the best interests of the United States, such portion of the military reservation at New San Diego, in the State of California, as is not required for the use of the Government.

Mr. MORRILL. I think the report had better be read.

The Secretary read the following report, submitted by Mr. SPENCER on the 7th instant:

The Committee on Military Affairs, to whom was referred the bill (S. No. 1192) to authorize the leasing of a portion of the military reservation of New San Diego, in the State of California, have had the same under consideration, and submit the following report:

This bill authorizes the Secretary of War to lease, upon such terms and conditions as he may deem most conducive to the interests of the United States, such portion of the military reservation of New San Diego, in the State of California, as is not required for the use of the Government.

The Secretary of War, upon being addressed by the chairman of your committee for his views and recommendations respecting the same, replies as follows:

WAR DEPARTMENT,  
Washington City, June 3, 1878.

SIR: Acknowledging the receipt of your letter of the 23d ultimo, transmitting a copy of Senate bill No. 1192, "to authorize the leasing of a portion of the military reservation of New San Diego, in the State of California," and requesting the views of this Department thereon, I have the honor to return said bill, with a copy of the official map showing the boundary-line of the military reservation at San Diego, with the recommendation that the bill may become a law.

Very respectfully, your obedient servant,

GEO. W. McCRARY,  
Secretary of War.

HON. GEORGE E. SPENCER,

Chairman Military Committee, United States Senate.

From this report of the Secretary of War, recommending the passage of the bill, it is the conclusion of your committee that portions of the military reservation at New San Diego, California, are not needed for military purposes, and that the United States can, if the bill becomes a law, derive revenue from leasing such unnecessary portion of the same. Inasmuch as the provisions of the bill place the matter in the hands of the Secretary of War, to be determined by his judgment in the premises, your committee are of opinion that the interests of the Government would be subserved by leasing such unnecessary portion, if any, of said reservation, and therefore recommend the passage of the bill.

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

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

LIEUTENANT JAMES T. LEAVY.

The next business on the Calendar was the joint resolution (H. R. No. 169) authorizing the payment of the accounts of Lieutenant James T. Leavy, an insane officer; which was considered as in Committee of the Whole.

The pay account of First Lieutenant and Brevet Captain James T. Leavy, United States Army, retired, being in an unsettled condition by reason of his insanity, there being mutual indebtedness between Leavy and the Government, the resolution directs the Paymaster-General to adjust the pay accounts of Leavy, and pay the balance, if any, found to be due him on account of salary during the time his name was omitted from the Army Register on account of his request to be wholly retired, which request was made by him while insane.

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

RIVER AND HARBOR BILL.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4236) making appropriations for the construction, repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes.

Mr. SPENCER submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4236) making appropriations for the construction, repair, preservation, and completion of certain public works on rivers and harbors, 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 1, 11, 17, 20, 38, 50, 54, 58.

That the House recede from its disagreement to the amendments numbered 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 18, 19, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 40, 41, 42, 43, 44, 46, 47, 48, 49, 51, 52, 53, 55, 56, 57, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, and 85.

That the Senate recede from its amendment numbered 21, with an amendment as follows:

Strike out all after the word "Arkansas," in line 10, page 4 of the bill, down to and including the words "seventy-five," in lines 11 and 12, same page, and insert in lieu thereof the word "forty."

And the House agree to the same.

That the House recede from its disagreement to the amendment numbered 24, and agree to the same, with an amendment as follows:

After the word "Missouri," in said amendment, insert the word "River."

And the Senate agree to the same.

That the Senate recede from its amendment numbered 39, with an amendment as follows: In lieu of "two hundred" insert "one hundred and fifty."

And the House agree to the same.

That the House recede from its disagreement to the amendment numbered 45, and agree to the same, with an amendment as follows:

After the word "at," in the said amendment, insert the words "or near."

And the Senate agree to the same.

GEORGE E. SPENCER,  
S. J. R. McMILLAN,  
M. W. RANSOM,

*Conferees on the part of the Senate.*

JOHN H. REAGAN,  
JOHN E. KENNA,  
MARK H. DUNNELL,

*Conferees on the part of the House.*

The PRESIDENT *pro tempore*. The question is on concurring in the report.

Mr. CONKLING. I inquire of the Senator having this bill in charge whether this is all the Senate is to know of this report. If it is, of course the Senate is to vote entirely blindfold, having heard nothing read but arbitrary numbers that convey no idea at all. I should like to know for one how much money there is in the bill now, and what its numbers from one to eighty-odd relate to?

Mr. SPENCER. I will endeavor briefly to explain this conference report. The bill is substantially as it passed the Senate. The numbers of amendments that the House recede from their disagreement to. The committee of conference has reduced the bill \$39,000 from the amount at which it stood when it passed the Senate. The total amount is about \$8,300,000. Oregon is reduced \$50,000, the harbor of Washington \$59,000, and the harbor of Dunkirk \$30,000. Those are the reductions that have been made, amounting in the total to \$130,000 all told. Then some of the House items are struck out; interior places, for instance, one place in Arkansas; the House consented to strike that out, which involved \$40,000.

Mr. KERNAN. Is the amount larger or smaller than when the bill passed the Senate?

Mr. SPENCER. Thirty-nine thousand dollars smaller than when it passed the Senate.

Mr. BLAINE. What is the total now?

Mr. SPENCER. Over \$8,000,000.

Mr. CONKLING. Mr. President, one remark made by the Senator from Alabama illustrates I think very well the character of this bill. He says \$30,000 has been stricken out applicable to the harbor at Dunkirk. Dunkirk is a harbor on a great inland sea. Dunkirk is the terminus of the Erie Railway. The harbor of Dunkirk is the place where stands an uncompleted breakwater, which is to wash and end and perish for the want of the appropriation which the committee has stricken out. Side by side with that is put the fact that this bill bristles with instances in which all the navigation made out by the speculations or the dreams of an engineer is local in its character, beginning nowhere on a national highway, running nowhere to a national highway, and never aiming at a depth of water exceeding three feet, and in a bill thus made it seems that \$8,300,000 is appropriated!

Mr. BLAINE. Mr. President, I never in my life but once before in Congress voted against a river and harbor bill; I voted against this one. We appropriate now, and if we continue the same system we appropriate annually hereafter the interest of over two hundred millions of national bonds. It would be cheaper to take the two hundred millions of national bonds and do up the work contemplated over this long space of time, because you would get the money a good deal cheaper than the tax-payers get it who have to pay it. We should only have to pay 4 per cent. upon it, and it costs the people a great deal more. I voted against this bill because I think it will tend to break down what is a great and good system, the system of improving the rivers and harbors of the country, which was for so long a mooted point between the two parties, but the question has been finally settled in favor of the power. It will be injured and ultimately it will be defeated by bills of this kind, and I am sorry that so extreme a bill has been reported and received the sanction of both branches.

Mr. KERNAN. Mr. President, I have been and I am in favor of

appropriating money to improve harbors and rivers which can be termed commercial rivers. I would like now in these times to vote to appropriate money up to the necessities of the work to be done upon all such objects; but if it has become so that to vote for such works which should be done for the good of the entire country and its commerce I must vote for large appropriations to improvements that are the merest internal improvements of small streams in States, I shall be compelled to vote against the bill. This plan of appropriating money will really lead to bankrupting any government that may exist here. I regret to have to do it. I desire to vote for all the objects which can be claimed to be within what I believe to be national purposes for the good of commerce; but I cannot vote for a bill where I think nearly one-half its items are appropriations, as my colleague says, to streams that are not even channels of commerce within a State, let alone being channels to the ocean or channels between a number of States or between the lakes and the ocean. Therefore I shall very reluctantly be compelled to vote against this report.

Mr. DAWES. Mr. President, this bill is of such a character that no party can take to itself any special credit either for the passage or for the opposition to it. Therefore what I may say can have no party application. I must, however, express my surprise at the democracy who supported this bill; for without their support it could not have become a law any more than without the republican support it received on this side. But I venture to call to mind that great democratic doctrine which seems to have gone out of sight of late, and which I wish might have been revived to put an end to the practice which has grown up in these cases, of voting the public money of the United States of America for purposes absolutely local and within the confines of a single State. That principle seems to have been lost sight of entirely or this bill might not have become a law. Where are the doctrines of the fathers, and where is the construction of the Constitution to which a great party in this country adhered with such signal fidelity and held itself up to so strongly in days that have passed?

Republicans who support this bill have enough to answer for in its perfect negation of all their pretensions at economy and a prudent and careful administration of the public expenses. They have never adhered quite so strictly to the doctrine to which I allude as the democratic party, but they have preached long and loud and resolved with great earnestness of language against the profligate expenditure of the public money. They have forgotten all this in the support of this bill as much as democrats have forgotten their catechism of olden times.

I agree with the Senator from Maine that this will work its own cure, or else there is no cure for it. It will break down the whole system. Here is an appropriation in a bill like this of one-half the amount of all the expenditures of the Government within times which we remember ourselves, when the extravagance of the Government made such an impression on the people that the administration which expended \$13,000,000 a year all told went down under the cry of extravagance. I voted in this bill for liberal appropriations for the restoration of harbors like the Charleston Harbor, for the protection of commerce upon the lakes and upon the seaboard, and for liberal appropriations for all such works as were in their nature public and for the advantage of the whole people. If those were all that this bill contained, even if the amount was swollen to \$8,000,000 so expended, I should not have felt called upon to vote against it; but more than half of this expenditure is for matters which in days gone by could not have received the sanction of a single democratic vote on the other side of the Chamber or a single republican vote here if we adhered to the doctrine of careful, and prudent, and economical expenditure of the public money for public purposes and not for local interests.

Mr. SPENCER. Mr. President, I do not think it is necessary to go on and repeat this debate. We have had it over and over again. I do not think it is necessary to reply to the slanders which the opponents of this bill persistently make, for they are slanders of the worst sort.

The total amount appropriated by the bill, as agreed upon by the committee of conference, is \$8,361,700, and that is devoted entirely to works of importance, and it is an appropriation for two years, as is suggested to me. This is an honest bill, a just bill, and it is in every respect a fair bill. It is about equally proportioned throughout all parts and sections of the country. Even the enemies of the bill have been cared for. This bill has been peculiarly opposed by both Senators from New York, and New York gets \$1,200,000 in round numbers in this bill.

Mr. DAWES. Ah! New York gets so much; Massachusetts gets so much! That is the vice of the bill, this judicious distribution all over the country without so much regard to the public necessities of commerce as to suggest what they called in Pennsylvania "a judicious tariff" that will command support in a better way than a measure framed with an eye single and sole to the demands of commerce.

Mr. WITHERS. It comes with a very good grace from the Senator from Massachusetts to arraign the democratic party in particular, and all the friends of this internal-improvement system in general, for supporting a bill which proposes to improve the rivers and harbors of the United States, thereby facilitating commercial operations, and increasing largely the prosperity of the country, because Massachu-

setts has had every inlet, creek, harbor, and everything else on the whole of its coast improved long years since, and you cannot find any place where you can put any more money there. But the people of the West and of the South are not so fortunately situated. They believe now, as I believed in times past, that there is no money expended by the General Government which returns as large profits as the money which is expended under the provisions and operations of this bill. They believe—

Mr. CONKLING. Will the Senator allow me to ask him a question?

Mr. WITHERS. Yes, sir.

Mr. CONKLING. Will the Senator do me the favor to mention in the State of Massachusetts or in any other State of the Union, north or south, an instance in which in former times—I mean before his time in public life and mine, before the war for example—moneys were ever appropriated to improve what he calls creeks and inlets, and what I will call streams, wholly within a State, running neither to an inland sea or to the open sea nor connected with any national artery of commerce? Will he mention to me an instance prior to twenty years ago in which any river and harbor bill contained an appropriation of public moneys avowedly upon the statement that if expended two feet of water might be got in a creek for navigation by which cord-wood could be moved in a flatboat or a scow.

Mr. WITHERS. I would add in reply to the Senator's rather prolonged and elaborate question that if he will refer to the list of appropriations which have been made he will find many such instances. I do not recall them by recollection now.

Mr. CONKLING. Prior to thirty years ago?

Mr. WITHERS. Yes, sir; years ago Congress passed bills by which creeks and inlets and small streams and harbors of no greater importance than those enumerated have been improved.

But that is not the point I wished to raise. It is this, that the Supreme Court of the United States has decided, and the opinion has been quoted here more than once in the progress of the debate on this and similar bills, that any stream which can be made navigable is national in its character.

Now, sir, we believe that if we can get an appropriation for the improvement of rivers and harbors we shall open up to commerce, to agriculture, and to the mechanic arts large areas of country which are now shut off from them because they have no access to markets; we shall increase so largely the productions of the country that they will enable the taxable value of the country to be increased in far greater ratio than the amount of money expended under the operations of the bill.

Now, as to the democratic party and their doctrines of strict construction, I have this to say, that an examination of my section of country, where those doctrines held potent sway for years, shows exactly the effect of adhering with rigid pertinacity to such a strict construction of the Constitution as would induce those people who are represented by us to refuse to receive aid from the General Government upon a constitutional punctilio when other sections of the country could reap all the benefit of these expenditures of the General Government. The consequence is that one section of the country which secured these advantages has increased in population, in wealth, and power with rapid strides, while the other, which has refused to accept these accessories to prosperity, has dwindled into comparative insignificance.

Sir, so far as I and my own section are concerned, we mean now if we can to get even in this race; we mean to secure the development of our country by means of the same agencies and the same means, and I for one have no constitutional scruples upon the subject.

Mr. WINDOM. Mr. President, I would not say a word on this subject if it were not for the fact that I am somewhat surprised at the statement made by my honorable friend from Massachusetts. He has made the broad assertion here, as I understand him, that one-half of the amount by this bill appropriated for these improvements is of a character that is substantially disgraceful to the Senate. I think I did not misunderstand him—that one-half of these improvements are not of a national character at all.

I have no defense to make of the democratic party whom he attempts to criticize on account of their conversion, as he claims, to this doctrine. While I respect individual democrats I have no love for the democracy; but I am glad to know that that party has become right, or nearly so, on this question, and I am sorry to find that my friend from Massachusetts has taken the old abandoned ground which the democratic party has been driven from. The point that surprises me in the statement of the Senator from Massachusetts is that one-half of these appropriations are of the peculiar character which he names.

Mr. President, in the discussion of Indian bills it is a common form of expression in this body and in the other to say that 40 per cent. of all the amount appropriated is stolen. In the river and harbor bills my friend has quoted the ordinary speech upon that subject and said that one-half of the amount appropriated by the bill is simply a steal for unimportant rivers, unimportant streams, and that they ought not to be passed because they are of no use to commerce, and all that sort of thing.

Mr. DAWES. Mr. President, I have not said any part of it was a steal.

Mr. WINDOM. My friend will excuse that word.

Mr. DAWES. I have said that a large part of it arose from the fact that the democratic party has undergone a change such as has been indicated by the Senator from Virginia, and he is in a race to get even with the republican party in this matter; he wants his share. He comes out here and publicly avows that he is for his share hereafter, and he is going to abandon all the old democratic doctrines and he is going to have with my friend from Minnesota and that school of politicians a pretty smart race if he gets even with them, I can say. But when you get to appropriating money from the United States Treasury to improve mountain streams, as they are called, advocated here upon the floor of the Senate by the name of mountain streams to be connected at each end hereafter, it is to be hoped, by railroads, then I think it is pretty evident that the democratic party has undergone this great change, and we are to witness just what the Senator from Virginia says, a race by each part to have its share of the public money.

Mr. WINDOM. The Senator from Massachusetts has made my speech better than I could have made it myself, although not precisely as I would have made it. I am surprised that one of the high priests of the republican party should find fault with our democratic friends for the hopeful evidences of conversion which they are giving on this subject. Now, I think that they are becoming right on this point, and I hope that my friend from Massachusetts, who is one of the oldest of the republicans, will not discourage them in this effort to recognize the great material interests of the country. It is one of the most hopeful features I have seen of the democratic party for many years.

Mr. President, the Senator from Massachusetts speaks of the race that is made, the effort to grasp all that can be had, &c., and he seems to think it will keep the democratic party busy to keep up with the Senator from Minnesota. I want to say that I hold in my hand here a document which shows that our good friends from Massachusetts have been somewhat wide-awake in other years on this subject. I have a statement from the Treasury Department showing "the amounts expended by the United States for various public works of the Government in each State and Territory of the Union from June 30, 1865, to June 30, 1873; together with the expenditures of the United States in aid of the construction of canals, railroads, wagon-roads," &c., from which I find that modest State represented by my modest friend from Massachusetts has received \$6,071,197.65—the good old State of Massachusetts in former years.

Mr. DAWES. During the one hundred years of the Government.

Mr. WINDOM. No; from 1865 to 1873.

Mr. DAWES. How much of it was for military fortifications, and how much was for public buildings of the United States? Talk about how much Massachusetts has received! That is the vice of the whole thing, that it is a distribution among the States.

Mr. WINDOM. I have the floor.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The Senator from Minnesota declines to be interrupted.

Mr. DAWES. I beg pardon.

Mr. WINDOM. I do not decline to be interrupted for a question.

Mr. CONKLING. Will the Senator meanwhile tell me what is the appropriation since 1865?

Mr. WINDOM. I will if I can get the floor.

Mr. DAWES. I beg pardon. The Senator from Minnesota insists upon the fact that this is a distribution among the States, that this is not an appropriation for public works of the United States, but that whatever is appropriated for a public work that happens to be within the limits of Massachusetts is an appropriation to Massachusetts, just as the Senator from Virginia and all of us have gone in here in this river and harbor bill to get our share for our States. I remember once when I was upon the House Appropriations Committee that a member from one of the States came before the House and said his State had not a single dollar appropriated for it, that he wanted \$200,000 to build some barracks in his State, and that would be all he would ask!

Mr. WINDOM. The Senator from Minnesota has not said what is attributed to him by the Senator from Massachusetts. He has not spoken of the distribution among the States at all; he has never discussed this question as a distribution among the States; and the only reason why I referred to this document was that my friend from Massachusetts referred to the fact of this distribution among the States and intimated that the Senator from Virginia and myself were in a race to see which could grab the most, and I desired to set before him, by reference to this public document, the fact that the good old State of Massachusetts had succeeded in grabbing a great deal before we commenced.

From 1865 to 1873, I will state again to the Senator from New York, the amount appropriated to Massachusetts was \$6,071,197.65.

Mr. CONKLING. Appropriated for what?

Mr. WINDOM. For improvements in the State of Massachusetts.

Mr. CONKLING. River and harbor improvements?

Mr. WINDOM. No, sir; for various improvements.

Mr. CONKLING. If the Senator means river and harbor improvements, I beg to state to him that he has set the sum at about four times what it was.

Mr. WINDOM. The Senator cannot assume that I meant rivers and harbors alone when I said distinctly that it included all the money appropriated for eight years for various purposes in Massachusetts.

Mr. CONKLING. I do not know what that covers.

Mr. WINDOM. I will read again: "Statement showing the amounts expended by the United States for various public works of the Government in each State and Territory of the Union, from June 30, 1865, to June 30, 1873, together with the expenditures of the United States in aid of the construction of canals' railroads, and wagon-roads from 1789 to 1873."

Mr. DAWES. Public works of the Government.

Mr. CONKLING. Which would include arsenals, I suppose.

Mr. WINDOM. It includes the appropriations made for various purposes within the State. I am finding no fault with it, Mr. President. I never yet in all the discussion on this question have raised a point as to what locality had received its share and what had not, and I am surprised that my catholic friend from Massachusetts—catholic I mean in the broad view which he takes upon this subject and all subjects—should undertake to stir up these sectional complaints with reference to what each separate State has received in the various appropriations. Sir, on this bill which is now pending I know no State line and I know no sections of this Union. I believe that this bill in the main is a good one, and I am astonished when I hear Senators as intelligent as my friend from Massachusetts say that one-half of these appropriations are of the character which he has denounced. I apprehend if I were to call upon the Senator from Massachusetts at this moment to state a half dozen of the appropriations in this bill which are not useful to commerce and which cannot be demonstrated to be worth more than they will cost, he would find himself in very serious trouble to name half a dozen of them. I think I will try the question. He has said one-half of these three hundred items are of that character. I ask the Senator to name six and I will yield for that purpose.

Mr. DAWES. The Senator desires me to name six that are not of the character that he suggests. I have not the bill before me, but every appropriation which is of the character I have named in the remarks I made is comprised in that category, and makes up, in my opinion, just about half the bill. Scarcely half this bill would ever bear the test which the democratic party in olden times applied to a river and harbor bill or which the republican party applied until this race began among the States, as suggested by the member of the Committee on Commerce who reported the bill, and who was chairman of the committee of conference, who in the last words he uttered commending it to the Senate suggested that one reason why it ought to command support was the judicious distribution of the amount to be expended in so many of the States that it ought to command the support of those States.

Mr. SPENCER. If the Senator will only allow me one moment. I only desire to state—

The PRESIDENT *pro tempore*. The Senator from Minnesota is entitled to the floor.

Mr. WINDOM. I simply desire to say that I have no further need of the witness.

Mr. McMILLAN. Mr. President, Senators who have attacked this bill, I feel assured, have not examined into it as accurately as you would suppose from their statements. It must be remembered that the appropriation for rivers and harbors this year embraces the appropriation for two years, no appropriation having been made last year. It must also be recollected that this bill embraces a large number of appropriations for a section of the country which before this year has not received the appropriations which it demanded and which it deserved. The great increase in the appropriations this year alluded to has been upon the great thoroughfares of the country, the Mississippi River, Charleston Harbor, the Red River, to prevent the absolute cutting off of that river from the Mississippi, the engineer stating that the waters of the river would be diverted from the Mississippi River if this appropriation were not made. The appropriations for the Mississippi River have been increased on the statement of the necessity for it by the engineers. The large appropriations embraced in the bill are for improvements which have been inaugurated years before, and for which appropriations have been made year after year, and for which Senators have voted.

The Senator from New York alluded to the harbor of Dunkirk. There was a change there by agreement in the conference committee on account of the fact that it was not deemed absolutely necessary that that appropriation should be made this year; and endeavoring to decrease the amount of the bill, as all the other appropriations for that State were increased, this reduction was made. As stated by the Senator from Alabama, all the harbors in the States bordering on the lakes of the North have been improved. Appropriations have been made for the continuance of those improvements, and this year appropriations have been made for the Columbia River, which has not been in the bill before. But taking all the appropriations, I do not fear to stand here and say that this bill, so far as its constitutional character is concerned, will compare favorably with any river and harbor bill that has ever been passed by Congress. I think the mere fact that this amount is large is not surprising when you take into consideration the greater extent of the country and the additional improvements that are embraced in the bill, all of them of a national character. The fact that this is the only appropriation that has been made for two years accounts very fully and reasonably for all the increase in the bill.

Mr. MITCHELL. I was not here when this conference report was

made, as I should have been, but I was called out momentarily, and I did not hear the statement of the Senator who made the report; in fact I do not know which Senator made the report. I desire to ask this question: How does the amount appropriated in the bill agreed on by the conference committee compare with the amount in the bill as it passed the Senate?

Mr. SPENCER. The reduction in all is \$39,000. The total amount of the bill now is \$8,307,000.

Mr. MITCHELL. Then the sum total now is about \$39,000 less than the amount passed by the Senate. May I inquire of the Senator from Alabama what reduction was made in the river appropriations?

Mr. SPENCER. In conference committee the reduction was \$50,000. As it now stands there is \$180,000 appropriated for Columbia River and Cascades. There was a reduction of \$50,000 from the amount fixed by the Senate.

Mr. MITCHELL. It leaves the appropriation for the Columbia River \$150,000?

Mr. RANSOM. There is \$85,000 unexpended balance, making \$235,000 applicable.

Mr. MITCHELL. Was there any reduction on the Senate amendments in any other respect?

Mr. SPENCER. Fifty thousand dollars for the harbor of Washington, and \$30,000 for Dunkirk Harbor, New York.

Mr. WHYTE. Mr. President, there is one subject that I am satisfied the country will be greatly exercised about, and public anxiety will be on the tiptoe to ascertain, whether the \$30,000-appropriated for the harbor of Duluth has been kept in the bill. [Laughter.] Can the Senator from Alabama inform me as to that?

Mr. SPENCER. I have forgotten what the appropriation in the bill as it passed the House for Duluth—

Mr. WHYTE. Thirty thousand dollars was given to Duluth. I hope it is left there.

Mr. SPENCER. It is left there, then.

Mr. WHYTE. That is proper. [Laughter.]

The PRESIDING OFFICER. The question is on the report of the committee of conference.

Mr. HOWE. Mr. President, I am in hope the Senate will agree to the report of the conference committee; though for one I regret extremely that the amount of money devoted to the work of internal improvements is \$39,000 less in the bill as it now stands than it was when it last left the Senate.

Mr. President, although the sum appropriated is less than it ought to be, I hope the bill will pass, and I hope this somewhat formidable effort to throw the United States into convulsions because of this bill will be abandoned. There was a time when these appropriations were before us item by item, and when it was proper for us to be told by the committee which considered the bill, by the Representatives of these States who are supposed in the aggregate to know as much about the requirements of the country as is known by any similar body of men—it was proper for us then to be told by all these witnesses which of the works provided for in this bill were not proper to be appropriated for, and which were proper. That information then was withheld. While the question was whether we should appropriate for this object or for that, the general objection urged was that you were proposing to expend too much of the public moneys. Those of us who have but a limited acquaintance with the geography of the country had no means of determining which was or which was not a proper appropriation. Then the opponents of the bill contented themselves with the objection: "You are appropriating too much money;" and now, when we see exactly what the sum is that is to be appropriated, they say, "Why the objects are not suitable; they are not national; they are not commercial; they ought not to be." One-half of them, says the Senator from Massachusetts, [Mr. DAWES,] ought not to receive a dollar. Sir, we have passed the point when I will consider that objection. We have considered the bill item by item; both Houses have agreed upon the large bulk of it; and now the question being whether we will agree to the bill as presented to us by the joint committee of both Houses, I will not condemn, I will not vote against the whole bill because you tell me that there is an item here or there which ought not to have been in the bill.

I shall not, then, spend a moment of time upon the question whether the Senator from Massachusetts is justified in saying that one-half these objects ought to have been kept out of the bill. I think it is a question which ought to lead us to be more careful next year. I think it is an allegation which the Committee on Commerce should attend to. It interests me somewhat, but I am not so certain that one-half these items ought to have been left out of the bill as that, because of that allegation, I will refuse to vote the money for those unquestionably national purposes for which the nation now waits and languishes.

Mr. President, undoubtedly the money, the \$8,000,000, appropriated by this bill is not evenly distributed among the States. That must be conceded. The Committee on Commerce has made the same blunder which the Almighty made when He formed these States. He did not himself distribute among them rivers or harbors equally. For some purpose unbeknown to me, and about which I think we had better not inquire, He did it. Undoubtedly if some of these committees had fashioned this continent, the Mississippi River would have traversed the Alleghanies, perhaps the White Mountains, but the Mississippi does not take that course. We may see the time when we shall undertake to send it in that direction, and then I undertake to predict

that the Senator from Massachusetts will not be found on this floor objecting to the amount we appropriate to be expended on the Mississippi.

Mr. DAWES. Has the Senator from Wisconsin heard of my objecting to any amount to be expended on the Mississippi River?

Mr. HOWE. No, sir.

Mr. DAWES. Wherever it runs?

Mr. HOWE. No, sir.

Mr. DAWES. Then what occasion is there for the remark?

Mr. HOWE. I have not heard the Senator from Massachusetts objecting to the expenditure on any river. I have heard him object to expending the amount appropriated in this bill and I have heard him say that there are portions of it which are expended upon objects not national.

Mr. DAWES. If the Senator had observed the course I had taken on this bill sufficiently to justify a criticism of my course, he would have observed that upon the appropriations for the Mississippi River and upon all these large appropriations I was willing and ready to vote as much money as any man without inquiring which way or where they ran.

Mr. HOWE. I am speaking now simply of this objection to the bill that the money is not evenly distributed among the States.

Mr. DAWES. I have not made any such objection.

Mr. HOWE. I did not say the Senator had. I hear it from different quarters.

Mr. DAWES. When the Senator takes up that branch of the subject, I hope he will omit to put me in that category, for my criticism of the bill was to the distribution of it among the States, the plan of it, the universal claim that it was "a fair divide." That was my objection to the principle of the bill.

Mr. HOWE. No, Mr. President. The Senator is undoubtedly right in stating his own position. I have assigned to him no position different from that. I concede this objection, this defect in the bill, that it does not distribute money evenly among the States. My only apology is that in some of the States rivers are not found and harbors are not found as they are in other portions of the country.

Now, Mr. President, one word as to whether this is a profligate bill or not, whether it appropriates more money in the aggregate than the country can afford. It is between eight and nine millions of dollars, I am told, altogether, to be devoted the current year to improving the great channels of commerce—of interstate and international commerce. In the bill which I hold in my hand you propose to spend two million and a quarter dollars the coming year to put up public buildings, needed undoubtedly, great conveniences to the country, but not a necessity of commerce and not really a necessity at all; and there is more than one-quarter of the amount of money devoted to that purpose that this bill proposes to devote to improving the rivers and the harbors.

In one city of the Northwest during one convulsion of generosity we dedicated \$5,000,000 to put up one single building for post-office and customs purposes of the Government of the United States. I think on a single building in that great city which my friend on my left [Mr. CONKLING] represents there have been expended already more than \$7,000,000. He shakes his head, and therefore I recede. My understanding was that we had spent on that building in the city of New York over \$7,000,000. Will the Senator be good enough to tell me what the sum is? I am receding from a proposition merely because the Senator shakes his head, and yet he tells me he does not know.

Mr. CONKLING. I say I do not know precisely, but the Senator states it much above the fact.

Mr. HOWE. I shall not stand, therefore, upon the assertion that \$7,000,000 have been spent on that building. I will content myself with saying that a good deal of money has been spent upon it, and it does facilitate commerce a great deal perhaps.

Mr. President, there are some other considerations which lead me to the conclusion, not only that the Government can afford to spend \$8,000,000 on these works this year, but that the Government cannot afford to refuse to spend \$8,000,000. I assume at this stage of the debate that commerce demands these improvements; that your country is not going to be poorer but be wealthier when you have enlarged these rivers and made safer these harbors. If I am not mistaken in that, then there is but one consideration which should forbid the Government prosecuting these works this year, and that is its inability to do it. There is not a Senator listening to me, there is not a Senator in the Chamber who when he needs to have a building erected, a farm fenced, a field plowed, or any work done in order to make him more thrifty, does not do it if he can command the means to effect that improvement, and there is not one of them who can command the means to make such improvements that does not gladly avail himself of an opportunity when labor is very abundant and therefore very cheap.

Mr. President, that is the predicament of the Government and of the people at this time. The Government needs to have these improvements made, and the people need as the people never before during my recollection needed the work and the money which the work will command for making these improvements, and the Government is as able to furnish the money this year as it was ten years ago or as it will be ten years hence. Hundreds and thousands of other employers are not able to employ labor. The Government can employ labor, and

because you can promote an urgent want of commerce and because you can meet an urgent popular necessity, for these two reasons I think you should not be so very parsimonious about the money you expend for labor during the present year.

Mr. President, there are many other things I want to say but will not take the time to say on this very subject. I think I will refuse to do it because I do not think it necessary to say them in order to secure the passage of this bill. Sir, I close as I commenced, by saying once more that I do hope this effort to convulse the country by the magnitude of this expenditure will be abandoned. The country can afford the expenditure; will not be poorer for it; a great many men will be happier for it; and the country itself will be wealthier for it.

Mr. BLAINE. Mr. President, one single remark may be made on what the honorable Senator from Wisconsin has said. I think if he and I would have sat down on this bill without impairing greatly its usefulness to the country we could have checked off an appropriation here and there that would have paid for opening up a new line of commercial intercourse with the Empire of Brazil. My remarks do not apply so much to him as they might apply to some extraordinarily zealous advocates of this bill who were equally zealous in their opposition to the other. I think the same Congress that can give a bill of between eight and nine million dollars for these appropriations for the internal commerce of the country might possibly afford \$150,000 to the external.

Mr. SPENCER. I hope we shall have a vote now.

Mr. WHYTE. Mr. President, I shall be compelled to vote against this bill. I voted against the bill two years ago. I felt the scourge which the Senator from Massachusetts laid upon the backs of democrats on this side of the Chamber; but I knew that I was not entitled to any of the lashes, for I have voted against these omnibus river and harbor bills whenever they have been presented for my consideration and my vote. But unfortunately my excellent friend from Massachusetts has forgotten that in old times our fathers considered that the power was sufficiently exercised when they made appropriations to protect the buoys and the light-houses and the various other paraphernalia upon the coast which would enable foreign vessels to come into our harbors and into our various sea-port towns. It was left to Massachusetts to commence this raid upon the Treasury. Massachusetts commenced under the administration of John Quincy Adams by appropriating money for Plymouth beach, in Massachusetts Bay; and consequently from that day the bad example set by that good Puritan State has been followed, and its children that have grown up in the West, like many scholars in the public schools, have become smarter than their masters; and they have now, instead of getting an appropriation of half a million dollars, (which was about the amount of these bills up to the time the war broke out,) they get up to from five to eight million dollars, this last one I believe to-day \$8,367,000, being the largest river and harbor bill that ever was passed by Congress.

Now, I admire Ulysses S. Grant. There was a heap of Roman in that man which inspired the admiration of every American. He was brave in the battle-field; he was brave in the White House, and that character which likened him to Andrew Jackson won upon the hearts of the American people, and he never did a braver act than that when in the summer of 1876 he took his sword and stuck it in the river and harbor bill and told his officer up there at the War Department, "thus far shalt thou go in the expenditure of the public money and no further," and instead of spending seven or eight million dollars, he limited the expenditure to \$2,000,000, which was ample for the protection of the various public works that were then in execution.

Mr. CONKLING. Does the Senator know what has become of the money which he says was thus courageously arrested?

Mr. WHYTE. It is in the public Treasury, I presume.

Mr. HEREFORD. No, sir; it has all been expended. Every dollar has been expended on the public works.

Mr. SARGENT. It stood two years.

Mr. HEREFORD. No, sir; item after item was immediately expended.

Mr. WHYTE. Then it is not true that this is an appropriation for two years. If that money has been expended for the second year, you have got four millions of it for each of the two years.

Mr. McMILLAN. Will the Senator from Maryland allow me to suggest to him that no river and harbor bill was passed last year?

Mr. WHYTE. Very well. I supposed—for I have not examined that branch of the question—that when General Grant stopped the expenditure of the money it then stopped; but if it has been expended since then it has been for the two years \$4,000,000 in each year, which is ample. The country cannot stand it. At a time like this, when we are doing everything in our power to lift the people out of despair and despondency on account of the financial distress prevailing everywhere, are we to tax them \$8,000,000 for public improvements? No, Mr. President, no such bill shall receive my vote, and I would rather you should omit my own harbor of Baltimore—for which you vote the paltry and picayune sum of \$75,000—that port of entry where so much is received for duties—I say I would rather wipe out every dollar of it than tax the people this \$8,000,000 in this crucial time of their suffering and distress.

Mr. McMILLAN. Will the Senator from Maryland allow me to suggest to him that if \$75,000 is such an insignificant sum for one harbor, the harbor of Baltimore, the whole amount of this bill must be

insignificant for all the vast number of public improvements that are to take place throughout the country.

The PRESIDENT *pro tempore*. The question is on agreeing to the report of the committee of conference.

Mr. SAULSBURY. Mr. President, I am not at all sorry that this debate has taken place. While I am sure it will not arrest the passage of this bill, I think it will have the effect of calling the attention of the country more particularly to the nature of this bill. It indicates very clearly that there is a great deal of dissatisfaction in the Senate. Even the friends of the measure have to come to the defense of this bill to undertake to justify its passage at this session.

I am not surprised at the criticism of the Senator from Massachusetts when he has observed a departure on the part of some of the democratic members from what was formerly the position of the democratic party in reference to questions of this kind. I say I am not surprised at the criticism, because he could not have failed to observe that it was a very wide departure from the doctrines which have heretofore been held by the democratic party, and from the former practice of the democratic Senators on this floor. But I wish to say to the Senator from Massachusetts that he must not judge the democratic party by the action of individual members of that party. All history, civil and ecclesiastical, proves that even the purest churches sometimes depart temporarily from the ways of right, and I assure the Senator that this is but a temporary aberration of my brethren of the democratic party from the true doctrine which their fathers enunciated in the years that are gone.

I was surprised, however, at the Senator from Massachusetts when he undertook to refer to economy in the expenditure of the public money by the republican party, of which he is a high-priest. Why, sir, for the last fifteen years what have been the expenditures of the party to which he belongs? We all know that they have heaped taxation upon taxation upon the people of this country; they have drawn from the resources of the people of this country by taxation an amount of money that is crippling the energies of the people; and it is chiefly because of the enormous strain on the resources of the people through the taxation inaugurated and consummated by the republican party while they had control of both Houses of Congress chiefly that the people are now embarrassed. We hear a great outcry about the times; we hear that business is prostrated; we hear that people are out of employment; but I ask what has caused it? There must be some cause for it, and what is it? It is due in a very large degree to the expenditures of the public money and the taxation necessarily entailed thereby. That is the cause of it, and I was surprised to hear the Senator from Massachusetts proclaim the economy in expenditures of the republican party to which he belongs.

Mr. DAWES. Mr. President—

Mr. SAULSBURY. I shall be through in a few moments and then can hear the Senator.

Mr. DAWES. I should like to put a single question.

Mr. SAULSBURY. I do not care to be led off from the line of thought, and if the Senator will wait patiently a few moments he will have the privilege of replying to me.

Mr. DAWES. I cannot spend time in debating the bill, but I should like to hear the Senator's views in answer to the Senator from Wisconsin, who says the chief merit of this bill is that it does spend so much and relieves the poor people by furnishing them employment. I did not know that the republican party had been in that business.

Mr. SAULSBURY. In reference to what was said by the Senator from Wisconsin, I will say that the expenditure of this money will not give a tithe of the relief to the people that the Senator from Wisconsin predicts. That Senator ought to know, as every man in the Senate does know, that a very large proportion of the expenditure of this money, a very large amount of the work that will be accomplished by the expenditure of this money, will not be by human hands, but by machinery, and the people themselves who need employment will not receive the money in wages. It will be the machinery that will be employed to clean out the harbors and the creeks, and the people for whom the Senator advocates this bill and who are so clamorous to have relief will not derive one-tenth of the benefit of the expenditure proposed in this bill.

Mr. President, I take occasion to say with reference to this bill, as I took occasion to say with reference to another, that it is in my judgment a most outrageous bill. What does it propose? The expenditure of more than \$8,000,000 of the public money when by turning to the records of the country it will be found that it is equal to the amount of the entire annual expenditures of this Government prior to 1812. It is more than one-half the whole annual expenditures of the Government in any year prior to the year 1832; and this upon a single bill for the improvement of harbors and rivers, for which there is no warrant in the Constitution of the country. You propose to expend one-half the amount of all the expenditure of the Government for all purposes prior to the year 1832. I am glad that this discussion has taken place. I hope the people of the country will take note of this discussion and that they will have their attention attracted to the character of this bill now on its passage. I shall vote against it.

Mr. HERFORD. Mr. President, I desire to express my surprise that my democratic friends should announce such doctrines as some of them have on this floor, that the improvement of rivers and harbors is anti-democratic. I never voted anything but a democratic

ticket in my life. I have been taught in my reading that the democratic party is the father of internal improvements. I think my friend the Senator from New York who sits behind me [Mr. KER-NAN] does great injustice to one of the greatest men of his State, one of its earliest prominent men, George Clinton, who took the lead in this business of improving rivers and harbors and cleaning them out by the General Government.

Let us see what our democratic fathers have done; let us see what our democratic predecessors have done. I find that, "to improve the Cumberland road east of the Ohio River," General Jackson signed six bills. They were bills for the improvement of a road in the interior. Mr. Monroe signed one of those bills and Mr. Madison signed five; and yet gentlemen tell us that because a river happens to be in the interior it is anti-democratic to improve it. I should like to know where those gentlemen have been reading up their democracy. I have been reading Jefferson and Madison and Monroe all my life and have learned my democracy from them. Let us go a little further and see.

I find an appropriation of \$6,000 for a road from the Mississippi River to the Ohio. Who signed the bill? Thomas Jefferson signed that bill to improve a road from the Mississippi River to the Ohio—signed by the father of democracy. That was a road in the interior. It is anti-democratic to improve a river in the interior, but very democratic for a road.

Let us go a little further:

Improving the navigation of Black River, Ohio.

Ten times appropriations were made for this and ten times the bills were signed by Andrew Jackson making appropriations for that river in the State of Ohio. We have heard some talk about creeks. Here is an appropriation in 1830, 1831, 1832, 1836, and 1837 "for the improvement of the navigation of the Conneant Creek, Ohio," and every one of these appropriations was signed by Andrew Jackson. Go a little further:

Improving the navigation of Cunningham Creek, Ohio.

In the years 1832, 1833, 1836, and 1837 appropriations were made for Cunningham Creek, all signed by Andrew Jackson, and the year after, in 1838, \$5,000 for the same creek, signed by Martin Van Buren; and yet it is anti-democratic to make these appropriations.

I could go on hour after hour and show that appropriations kindred to these have been made by democratic Congresses and signed by democratic Presidents, commencing with Jefferson and coming down to the present period. My democratic friends all around me are discrediting the father of democracy when they say that such items are unconstitutional. I give you acts of the fathers of the democratic party and the fathers of internal improvements by the General Government.

Mr. SPENCER. Mr. President, I hope the vote will be taken.

Mr. DENNIS. Will the Senator allow me a word?

Mr. SPENCER. Certainly.

Mr. DENNIS. Mr. President, this question has assumed such a form, and the sincerity of those who support the measure has been questioned in such a way, that I think it incumbent on me to say a word before the vote is taken.

Sir, I have ever been in favor of internal improvements. Much as I esteem my honorable colleague, I must say that he and I are antipodes on this question. I came from old Whig stock. I believe in the doctrine that this Government has power to make internal improvements for the general welfare throughout the States wherever it can be done without conflicting with the powers invested by the Constitution in the States.

Again, sir, this bill is calculated to improve and benefit the condition of our people. Look throughout this country at the starving millions; see the destitution and want which stalk abroad. Gentlemen talk about the money expended on these great rivers and other public works. Sir, is it not a thousand times better that money should be voted for such purposes and spent among our own people, giving employment to the poor who are now clamoring for bread, than to be hoarded in the Treasury and kept there to pay interest upon bonds held abroad by foreigners?

Is it not better to make the expenditure in this country, to scatter it among our own people rather than hoard it for the purpose I have indicated. I think the wisdom of the position I took four years ago in relation to the contraction of the currency is being fully exemplified. I then contended that the true course was not contraction, which has caused many of the evils that now afflict us. I think it important to give our people employment, and it can be done by devoting the money which this bill appropriates for the improvement of rivers and harbors.

My friend from New York [Mr. CONKLING] spoke about this bill providing for the improvement of little streams three feet deep. Does he forget that the mountain rill feeds the little stream that flows into the mighty river, and the river runs into the harbor from which we transport our exports to foreign countries? We must improve them if we want commerce, and by improving them we give employment to those who are now needy, and we should not forget that—

Satan finds some mischief still  
For idle hands to do.

It is the duty of the Government to protect the people. I should vote for the bill on that account if for no other. Besides, I take the

ground that the way to reach prosperity is to develop your own internal resources. When we do this and make the United States an exporting instead of an importing nation, sending your products abroad, the result will be to bring gold into this country and thus add to the prosperity and welfare of the people.

The PRESIDENT *pro tempore*. The question is on concurring in the report.

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

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BAILEY, (when his name was called.) I am paired with the Senator from Mississippi, [Mr. LAMAR.] If he were here, I should vote "nay."

The roll-call being concluded, the result was announced—yeas 39, nays 22; as follows:

## YEAS—39.

Allison,	Conover,	Johnston,	Oglesby,
Anthony,	Dennis,	Jones of Florida,	Paddock,
Armstrong,	Dorsey,	Kellogg,	Patterson,
Barnum,	Eustis,	Kirkwood,	Plumb,
Burnside,	Ferry,	McMillan,	Ransom,
Butler,	Gordon,	McPherson,	Saunders,
Cameron of Pa.,	Grover,	Matthews,	Spencer,
Cameron of Wis.,	Hereford,	Maxcy,	Windom,
Cockrell,	Hill,	Merrimon,	Withers.
Coke,	Howe,	Mitchell,	

## NAYS—22.

Bayard,	Eaton.	Morrill,	Voorhees,
Beck,	Harris,	Randolph,	Wadleigh,
Booth,	Kernan,	Rollins,	Wallace,
Conkling,	McCreey,	Sargent,	Whyte.
Davis of Illinois,	McDonald,	Saulsbury,	
Dawes,	Morgan,	Teller,	

## ABSENT—15.

Bailey,	Christiancy,	Hamlin,	Lamar,
Blaine,	Davis of W. Va.,	Hoar,	Sharou,
Bruce,	Edmunds,	Ingalls,	Thurman.
Chaffee,	Garland,	Jones of Nevada,	

So the report was concurred in.

## ARMY APPROPRIATION BILL.

Mr. SARGENT submitted the following report; which was read:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4867) making appropriations for the support of the Army for the fiscal year ending June 30, 1879, 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 7, 8, 11, 18, 19, 21, 23, 25, 26, 27, and 63.

That the House recede from its disagreement to the amendments numbered 1, 2, 4, 5, 6, 10, 12, 13, 14, 15, 16, 17, 22, 24, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 51, 53, 55, 62, and 64, and agree to the same.

That the House recede from its disagreement to the amendment numbered 3, and agree to the same, with an amendment as follows:

Strike out, in lines 12, 13, and 14, page 1 of the bill, as follows:  
"Provided, however, That not exceeding five hundred recruits in addition thereto may be kept at recruiting stations, as the necessities of the service may require."  
And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 9, and agree to the same, with an amendment as follows:

Strike out the word "seventy," wherever it occurs in said amendment, and insert in lieu thereof the word "fifteen."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 20, and agree to the same, with amendments as follows:

Strike out "eighty" and insert in lieu thereof "sixty," strike out "headquarters" and insert in lieu thereof "store-houses."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 31, and agree to the same, with an amendment as follows:

Strike out from said amendment, in line 1, the words "and fifty."

And the Senate agree to the same.

That the Senate recede from its amendment numbered 48, with an amendment changing the number of the section to "2;" and the House agree to the same.

That the House recede from its disagreement to the amendment numbered 49, and agree to the same, with an amendment as follows:

Substitute for the words stricken out the following:

SEC. 3. That hereafter all vacancies in the grade of second lieutenant shall be filled by appointment from the graduates of the Military Academy so long as any such remain in service unassigned; and any vacancies thereafter remaining shall be filled by promotion of meritorious non-commissioned officers of the Army, recommended under the provisions of the next section of this act: *Provided*, That all vacancies remaining after exhausting the two classes named may be filled by appointment of persons in civil life.

And the Senate agree to the same.

That the Senate recede from its amendment numbered 50, with an amendment changing the number of the section to "4;" and the House agree to the same.

That the Senate recede from its amendment numbered 52, with an amendment changing the number of the section to "5;" and the House agree to the same.

That the Senate recede from its amendment numbered 54, and agree to the text proposed to be stricken out, amended as follows:

Strike out all after the word "otherwise," and insert in lieu thereof the following: "Unless the Secretary of War shall by an order in writing otherwise direct," and change the number of the section to "6."

And the House agree to the same.

That the House recede from its disagreement to the amendment numbered 56, and agree to the same, with an amendment as follows:

Strike out the word "commuting" and insert in lieu thereof "computing," and add at the end of said amendment the following: "And retirement. And the retired list shall hereafter be limited to four hundred in lieu of the number now fixed by law;" and change the number of the section to "7."

And the Senate agree to the same.

That the Senate recede from its amendment numbered 57 and agree to the text proposed to be stricken out, amended as follows:

Strike out the word "fuel," in line 12, page 3 of the bill, and insert in lieu thereof the following: "Allowance of or commutation for fuel to commissioned officers is hereby prohibited; but fuel;" and strike out, in line 19, page 13 of the bill, the words

"on the frontier" and insert in lieu thereof the words "west of the Mississippi River;" and change the number of the section to "8."

And the House agree to the same.

That the Senate recede from its amendment numbered 58, and agree to the text proposed to be stricken out by said amendment, amended as follows:

Strike out the word "nine," in line 13, page 19 of the bill, and insert in lieu thereof the word "ten;" strike out the words "fifty-four," in line 16, same page, and insert in lieu thereof the word "seventy;" strike out all after the word "month," in line 16, same page, down to the end of the paragraph, and change the number of the section to "9."

And the House agree to the same.

That the House recede from its disagreement to the amendment numbered 59, and agree to the same, with amendments as follows:

In lieu of section 3 of said amendment substitute the following:

SEC. 10. That three Senators, to be appointed by the President of the Senate, and five members of the House, to be appointed by the Speaker of the House, are hereby constituted a joint committee to whom the whole subject-matter of reform and reorganization of the Army of the United States shall be, and is hereby, referred; and said committee shall have power to send for persons and papers, to employ a clerk and stenographer, and shall have leave to sit during the recess of Congress; and the Secretary of War is hereby authorized to detail, upon the request of the committee, one or more officers to act as secretaries thereof. The Public Printer shall print such documents as the committee may require.

Strike out, in line 1 of section 4 of said Senate amendment, the word "commission" and insert in lieu thereof the word "committee," and change the number of the section to "11."

Strike out, in line 1 of section 5 of said Senate amendment, the word "commission" and insert in lieu thereof the word "committee."

Strike out, in line 2 of said section 5, the word "direct" and insert in lieu thereof the word "select."

Strike out, in lines 4 and 5 of said section 5, the words "the next session through the President of the United States" and insert in lieu thereof "January, 1879."

Strike out, in line 11 of said section 5, the word "commission," and insert in lieu thereof the word "committee."

Strike out, in line 12 of said section 5, the words "president of said commission" and insert in lieu thereof "chairman thereof," and change the number of the section to "12," and add a new section, as follows:

SEC. 13. That from and after the passage of this act all promotions in the Army, in each and every grade, arm, corps, and department thereof, shall cease, and thereafter no promotions or appointments shall be made to fill any vacancy which may occur, or be created therein, until after such report shall be made and acted upon by Congress: *Provided*, That this limitation shall not apply to the line of the Army below the rank of captain.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 60, and agree to the same, with an amendment as follows:

Strike out, in line 2 of the matter proposed to be inserted by the Senate, the word "four" and insert in lieu thereof the word "five," and change the number of the section to "14."

And the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 61 and 66, and agree to the same, with amendments changing the numbers of the sections to "15" and "16," respectively; and the Senate agree to the same.

That the Senate recede from its amendment numbered 65, and agree to the text proposed to be stricken out by said amendment, with an amendment inserting after the word "person," in line 22, page 22 of the bill, the word "willfully;" and the House agree to the same.

A. A. SARGENT,  
W. B. ALLISON,  
R. E. WITHERS,

Managers on the part of the Senate.

ABRAM S. HEWITT,  
WM. A. J. SPARKS,  
CHAS. FOSTER,

Managers on the part of the House.

Mr. SARGENT. Mr. President, I have never in my experience, serving on committees of conference had a bill referred to such a committee which presented such great points of difficulty as the one upon which the conferees between the House and Senate have come to an agreement. The difficulty did not spring from want of courtesy or of a desire to agree upon the part of the House conferees, for I must say that they showed their desire to agree with the Senate so far as they were able, considering the opinions of the House. I believe the Senate conferees carried the same spirit into that conference, and while feeling bound to carry out the wishes of the Senate in all substantial matters if it was possible to do it, we desired also, so far as we could without surrendering principles, to agree with the desires of the committee on the part of the House. Out of a conference thus conducted has come the report which has been laid before the Senate.

The problems presented by the bill as it went to that committee of special importance were four. First, a reduction of the Army by the House to twenty thousand men, the Senate fixing the number at twenty-five thousand. Second, the House upon the bill had reorganized the Army throughout, and the Senate conferees were not in a position to object that this was improper, it being upon this bill, in view of the fact that the last reorganization of the Army, made in 1870, was also made upon the Army bill. The Senate, however, by a very strong expression of opinion, seemed to have taken the position that no such reorganization was judicious or could be allowed with its consent unless a commission or committee should pass upon the method of reorganization and digest a plan and present it for the consideration of the two Houses. Third, the House had made a transference of the Indian Bureau to the War Department. The question of difference here was radical between the House and the Senate. It was not merely a question of details as to whether the provisions of the bill could be perfected, but whether the transfer should be made at all or not. The Senate, by an overwhelming opinion, as it seemed to the conferees, had determined that no such transfer should take place at present, or without the intervention of the report of a committee. Although my opinions were very strongly in favor of the transfer, and upon any other occasion than in conference I should have felt like urging them, still I felt in honor bound by the vote of the majority of the Senate, although it overruled my private views, and

I contended in the committee of conference that this transfer ought not to take place without the intervention of a committee, such as the Senate had provided.

The fourth point of difference between the two Houses, happily to a very considerable extent modified by the action of the Senate, was the last section of the bill which provided against the use of the Army as a *posse comitatus* or otherwise except in obedience to the Constitution and laws of the United States.

Out of this mass of contradictions, if it may be so called, and after a great many hours of session, the committee of conference have come to these conclusions: first, the House yields the reduction of the Army, and it stands at twenty-five thousand men. All the amendments which depend upon that proposition, and which run from one up to twenty or thirty, are consequently agreed to as the Senate desire. The argument used with the committee of conference that we are upon the verge of an Indian war; that our frontier from Texas to Montana and Washington Territory needs protection; that we have but to look into the daily press to see the pressing necessity for the effective force of the Army in the shape of the men who carry the muskets and ride horses, as soldiers must be kept up, induced the House conferees to forego their position in that matter, having in view also certain propositions which were assented to by the Senate. Upon the point of reorganizing the Army we came to an agreement with them by a modification of the commission provided by the Senate. The House conferees objected to placing Army officers upon the commission—in fact upon giving the power of incipient legislation to anybody except to members of the two Houses. When we proposed that this might be done, not giving these parties a vote, they nevertheless insisted that the committee could call before them any Army officer that they saw fit under the general powers of the section, which are somewhat enlarged by the amendment which we report, and get all the information they wanted, and would be more free to act, more unbiased than they would be provided that the Army officers were an integral part of the commission.

Under these circumstances the section creating the commission was amended so as to read as follows:

That three Senators, to be appointed by the President of the Senate, and five members of the House, to be appointed by the Speaker of the House, are hereby constituted a joint committee to which the whole subject-matter of reform and reorganization of the Army of the United States shall be, and is hereby, referred. And said committee shall have power to send for persons and papers, to employ a clerk and stenographer, and shall have leave to sit during the recess of Congress. And the Secretary of War is hereby authorized to detail, upon the request of the committee, one or more officers to act as secretaries thereof. The Public Printer shall print such documents as the committee may require.

The subsequent sections are modified by changing the word "commission" into "committee" to correspond with this; and these are the particulars in which the modification is made.

The House conferees very reluctantly indeed yielded this provision for the reorganization of the Army, and went with considerable power into an argument of the question as to its necessity, and dwelt upon the continual promotions to make up the large numbers of the present line, staff, &c. As a compromise upon these matters and to secure this fundamental proposition of the Senate, feeling impelled thereby by the apparently unanimous attitude of the Military Committee of the Senate, to save this feature of the Senate proceedings if possible and yet agree, the Senate conferees agreed that until the report of this committee and action of Congress thereupon, which, of course, includes any action of Congress upon the subject-matter, promotions in the staff should cease, and in the line to the rank of captain, and further provided, leaving the pay of the Army officers as it now is, that certain allowances should be cut off, for fuel, for forage, for quarters, substantially as provided in the House bill, except that for quarters the amount of \$9 allowances for a room was struck out and \$10 inserted, the Senate committee insisting for a long while, until finally there seemed to be danger of sacrificing the bill, upon \$12. That a reduction should be made from the \$15 allowed now, in consideration of the fact that rents are so much cheaper, cannot be questioned, but it may be that \$10 per room is too small. That may be a matter for subsequent legislation. I commend it to the consideration of the committee to be appointed on the reorganization and reform of the Army, in case the bill as reported passes, or if it passes in any form containing that committee.

I will not discuss the question of forage and quarters, because I do not wish to embarrass the bill by a discussion that may be unnecessary. I should like to state simply upon that point that I think as an independent proposition, not upon the Army bill, the Senate would be very likely to agree to the conclusions which were arrived at by the conferees; and I feel, therefore, less embarrassed upon that point than I otherwise would.

The transfer of the Indian Bureau was surrendered by the House conferees, after due debate and for the sake of agreement, the joint committee being modified to meet their views, as reported in the document read at the desk, giving promise of effective examination and legislation hereafter if Congress shall so will.

With reference to the provisions of the bill inserted by the House prohibiting the use of the Army, which is section 29, Senators will remember that it was amended in the Senate so as to strike out in lines 3 and 4 the words "under the pretext or;" in the sixth line the word "expressly" was stricken out, and in the seventh line the words "the Constitution or by" were inserted, so as to read "by the Consti-

tion or by act of Congress," and the penalty was stricken from the bill. We found considerable difficulty in agreeing upon this section, but the modification which the Senate had made in it made it possible to come to an understanding. I should like to say here that it is my firm judgment, after the experience of the last forty-eight hours, that unless the Senate had made the duty easy for the committee by the modification which it made in that section, it would have been impossible to have come to any agreement on the Army bill with the original House section in controversy. I am satisfied it never would have been stricken from the bill. As it now stands, the House yielded that the words "under the pretext or" should go out, which we contended were in the nature of a reflection upon the past administration of the Government, and we could not consent that anything in the nature of a reflection, and which was entirely useless for any practical purpose, should remain in the bill. We satisfied them by our argument that that ought to be done, and it was stricken out.

With reference to the word "expressly," we restored it and allowed it to go in, so that now the employment of such force must be expressly authorized by the Constitution or by act of Congress, they assenting that the words "the Constitution or by" before the words "act of Congress" might remain in, so that if the power arises under either the Constitution or the laws it may be exercised and the Executive would not be embarrassed by the prohibition of Congress to act where the Constitution requires him to act; and the embarrassments would not have the effect of restraining the action of an upright and energetic Executive, but still might raise a question which he would desire to avoid if possible. The penalty remains in the section as agreed upon, except that we procured that the word "willfully" should be put in before the word "violating;" so that it reads:

And any person willfully violating the provisions of this section shall be deemed guilty of a misdemeanor.

Mr. President, that is the report of the committee of conference, with the exception of some minor matters which are settled in accordance with the general principles which I have stated. I suppose it is not necessary for me to detain the Senate with any further statement upon it.

Mr. McMILLAN. Can the vote be taken upon any section of the bill separately?

Mr. SARGENT. It must be taken as a whole.

The PRESIDENT *pro tempore*. The report must be adopted or rejected as a whole.

Mr. McMILLAN. The question cannot be divided?

The PRESIDENT *pro tempore*. It cannot. The question is on agreeing to the report.

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

The yeas and nays were not ordered.

The report was concurred in.

#### MEXICAN COMMISSION AWARDS.

Mr. DAVIS, of Illinois, submitted the following report; which was read:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. No. 1016) to provide for the distribution of the awards made under the convention between the United States of America and the Republic of Mexico, concluded on the 4th day of July, 1893, 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 its amendment to the fifth section of the bill, and that both Houses agree to the following as a substitute for said fifth section:

SEC. 5. And whereas the government of Mexico has called the attention of the Government of the United States to the claims hereinafter named with a view to a rehearing: Therefore,

*Be it enacted*, That the President of the United States be, and he is hereby, requested to investigate any charges of fraud presented by the Mexican government as to the cases hereinafter named, and if he shall be of the opinion that the honor of the United States, the principles of public law, or considerations of justice and equity require that the awards in the cases of Benjamin Weil and La Abra Silver Mining Company, or either of them, should be opened and the cases retried, it shall be lawful for him to withhold payment of said awards, or either of them, until such case or cases shall be retried and decided in such manner as the governments of the United States and Mexico may agree, or until Congress shall otherwise direct; and in case of such retrial and decision, any moneys paid or to be paid by the Republic of Mexico in respect of said awards respectively shall be held to abide the event, and shall be disposed of accordingly; and the said present awards shall be set aside, modified, or affirmed, as may be determined by such retrial: *Provided*, That nothing herein shall be construed as an expression of any opinion of Congress in respect to the character of said claims, or either of them.

That the House recede from its first amendment to said bill.

DAVID DAVIS,

J. G. BLAINE,

A. G. THURMAN,

*Managers on the part of the Senate.*

B. WILSON,

JAS. R. CHALMERS,

N. P. BANKS,

*Managers on the part of the House.*

Mr. COCKRELL. I tried to hear the report read, but the confusion was so great on this side of the Chamber that I could not hear it. I should like to have the Senator make an explanation of it.

Mr. DAVIS, of Illinois. I preferred section 5 as adopted by the Senate, but this meets the same object, and a majority of the conference agreed to it.

Mr. COCKRELL. That is just the point I want to get at. What is the provision the conferees have agreed upon in lieu of the one which was adopted by the Senate?

Mr. DAVIS, of Illinois. It is a request, at the instance of the Mexican government, that the President of the United States will examine into the Weil and La Abra mining claims as to any charges of fraud, and if in his opinion the honor of the United States and the principles of public law and justice and equity require that there should be a retrial of those cases that he would grant it.

Mr. WITHERS. And the money is not to be paid until the matter is settled?

Mr. DAVIS, of Illinois. No, sir.

The PRESIDENT *pro tempore*. The question is on concurring in the report.

The report was concurred in.

JOHN H. MOORE.

Mr. DAVIS, of Illinois. The Committee on the Judiciary have had under consideration the bill (S. No. 1023) to remove the political disabilities of John H. Moore, and have instructed me to make a short report in the case to the effect that there is no necessity, in their opinion, for removing disabilities, as the applicant does not come within the disqualifying words of the fourteenth amendment. I therefore ask that the report be printed and the bill indefinitely postponed.

Mr. HARRIS. He is under no disability, if I understand the Senator from Illinois?

Mr. DAVIS, of Illinois. He is under no disability.

The PRESIDENT *pro tempore*. The report will be printed, and the bill postponed indefinitely, if there be no objection. The Chair hears none.

SENATOR FROM OREGON.

Mr. SAULSBURY. This morning the Senate gave me permission to present at this or the next session my views in reference to the investigation of the election of the Senator from Oregon, [Mr. GROVER.] I now desire to present those views, and I move that they be printed.

The motion was agreed to.

CATHARINE D. HUNT.

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

The bill (H. R. No. 3576) granting a pension to Catharine D. Hunt was read by its title.

The PRESIDENT *pro tempore*. This bill was reported adversely by the Committee on Claims, and it will be passed over.

JOHN S. HALL.

The bill (H. R. No. 762) granting a pension to John S. Hall, of West Virginia, was read.

Mr. INGALLS. Let that go over.

The PRESIDENT *pro tempore*. The bill will be passed over.

W. H. NEWMAN AND L. A. VAN HOFFMAN.

The bill (S. No. 752) for the relief of W. H. Newman and L. A. Van Hoffman was considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to W. H. Newman and L. A. Van Hoffman \$18,430.67, in full compensation for the use of the Pioneer Mills, in Alexandria, Virginia, by the United States authorities, during the late war.

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

FINAL ADJOURNMENT.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had non-concurred in the resolution of the Senate extending the time for the final adjournment of the second session of the Forty-fifth Congress to twelve o'clock meridian on Thursday, the 20th of June.

JOHN S. HALL.

Mr. HEREFORD. As happens very often to all of us in this body, I was called out of the Chamber and while out the bill (H. R. No. 762) granting a pension to John S. Hall, of West Virginia, was passed over. I ask that that case be taken up and acted upon, and I desire to give my reasons for it.

Mr. ROLLINS. What case is that?

The PRESIDENT *pro tempore*. The case of John S. Hall, which was passed over in the absence of the Senator from West Virginia, and he desires to explain it. Is there objection? The Chair hears none.

Mr. HEREFORD. I wish to state simply what the case is. This bill has already passed the House. This young man entered, as is shown by the report, as a teamster in Captain Irving's quartermaster's fourth brigade, in October, 1863, and remained in the Army until 1864, about one year. At the time he volunteered into the Army he was a minor. He had one brother in the confederate army and one in the Union Army. He joined his fortunes with the Union Army. While thus a teamster, on one cold dreary night, he was ordered to carry provisions from one portion of the Army to another, and in the dark of the night he was lost and laid out all night, from which he had an attack of typhoid fever, which fell into his eyes, and he is now and has been for years totally blind. I ask that the House bill may be passed without objection. I ask it in behalf of a man who is to-day totally blind, having lost his eyesight in the service of our Government in the late war, and who must go through the world the rest of his days blind.

Mr. INGALLS. I object to the consideration of this bill because it was reported by the Committee on Claims; which, as I understand, has no jurisdiction whatever over the subject of pensions.

Mr. CAMERON, of Wisconsin. Will the Senator allow me one word?

Mr. INGALLS. Certainly; I yield to the Senator from Wisconsin.

Mr. CAMERON, of Wisconsin. I wish merely to state that when the bill was introduced in the Senate it was referred to the Committee on Pensions. That committee reported it back, with the recommendation that it be referred to the Committee on Claims. It was thereupon referred to the Committee on Claims. Having come to the Committee on Claims under that order of the Senate, the Committee on Claims thought it was its duty to examine and report upon it. The Committee on Claims would have been very glad to escape the consideration of the bill; but it was sent there, as I have stated, after it had been before the Committee on Pensions, and the Committee on Pensions refused to consider it, but reported it back with the recommendation that I have mentioned.

Mr. HOAR. If the Senator will pardon me for stating one additional fact, the other day, when there was a discussion of some like case, the question was put to the chairman of the Committee on Pensions why it was that his committee had declined to take cognizance of the case and referred it to us, and the chairman replied that he could not carry in his memory all the cases which had been before his committee. He may recollect when he informed the Senate of that.

Mr. INGALLS. I recall that very distinctly.

Mr. CAMERON, of Wisconsin. The Committee on Claims were informed in some way, I do not remember how, that the Committee on Pensions would not take cognizance of a case unless the applicant for a pension had been technically in the military service. I do not know whether the committee has adopted that rule or not.

Mr. INGALLS. The Committee on Pensions to whom this bill was first referred gave the whole case a full examination, and concluded that the beneficiary named in this bill did not come in any sense whatever within the spirit and intent of the pension laws. He was not an enlisted man, and that being the case, if he had been injured or had lost his health or had suffered any loss in the service of his country, he was entitled to a specific sum by way of relief. I beg the Senator to observe the distinction that I intended to make. This man not being the subject of pension, (and it is one only of a class that is repeatedly brought to us,) we reported the case back to the Senate with our judgment that he was not pensionable; but not desiring to deprive him of any rights he might have against the Government we asked that the bill might be referred to the Committee on Claims to allow him such a sum as in their judgment would be an adequate compensation for the injuries he had received. It is on that ground and for that reason that I object to the consideration of the bill at this time. I contend that the Committee on Claims have no right to report bills granting pensions so long as the Committee on Pensions exists in this body and is charged with the consideration of that subject.

Mr. McMILLAN. If the Senator from Kansas will allow me, I will state that this was an application for a pension made to the House of Representatives, and the bill passed the House and came to the Senate. It was referred, as an application for a pension, to the Committee on Pensions of the Senate. The Committee on Pensions reported the bill back to the Senate with a recommendation that it be referred to the Committee on Claims.

Mr. INGALLS. Because the man was not pensionable.

Mr. McMILLAN. That was not so communicated to the Committee on Claims.

Mr. INGALLS. That was the reason.

Mr. McMILLAN. The reason was not stated.

Mr. INGALLS. I state it now.

Mr. McMILLAN. The record shows that the action of the Senate was that the bill for a pension was reported back from the Committee on Pensions with the recommendation that it be referred to the Committee on Claims, and it was so referred. Under that action of the Senate the Committee on Claims supposed they had a right to act upon the bill sent to them in that special case.

Mr. INGALLS. I ask the Senator from Minnesota if he seriously contends that the committee of which he is chairman has a right to pass upon pension cases?

Mr. McMILLAN. I certainly do not, unless the Senate expressly direct it. My objection to the reference from the Committee on Pensions was that they did not act upon it definitely; that they did not report adversely or determine the question in some way and let it go as a claim to the Committee on Claims, and not as an application for a pension.

Mr. INGALLS. The man was not pensionable, and I objected to the consideration of the bill.

Mr. McDONALD. Mr. President, this was a case that was before the Committee on Pensions at the last Congress. I remember the case very well. I thought then, and I think still, that the man ought to be entitled to a pension. It is true that he is not pensionable under the general law regulating the granting of pensions on application to the Pension Bureau. It is of just such cases that the Congress of the United States takes cognizance. Where there is real merit in a case, a bill for the relief of the party is generally brought in and passed. In fact nearly all the pension bills that are on the printed

Calendar now, many of which have been passed in the last few days, are exceptional cases, where the party cannot obtain a pension by application to the Pension Office, because the general law does not provide for his case. This man became blind in the service of the United States, but he was employed and engaged as a wagoner in the Quartermaster's Department, and for that reason he was excluded as a pensioner. But his disabilities are just as great, and they were incurred in the performance of duty just as essential as any other connected with the Army.

As to the right of the Committee on Claims to consider this question, I have held that all the committees of the Senate are but its organs to execute such orders as the Senate sees fit to refer to them. There is certainly nothing in the objection which ought to set this bill aside at this time. I do not believe there is a more meritorious case on the Calendar granting pensions to persons who have become disabled in the service of the United States than the one under consideration.

Mr. HOAR. I gave my assent to this report with a good deal of reluctance, and perhaps for that reason my assent is more likely to be right because it was given after a very full appreciation of the objections which exist to the case. It seems to me that in regard to persons not in the military service of the United States who enlist, enter into a contract with the Government by which they are subject to military command and are exposed in consequence of that military command to military danger, and in consequence of that danger suffer the loss of health or limb, while we have not yet adopted the policy of pensioning them by uniform and general law, still in extreme and grave cases the United States may do and should do what generous employers, able to afford such relief, do for servants who sustain such injuries in their employ. The precedents are that way. We have granted a sum of money to two or three persons who suffered by an explosion of gas in the Senate wing of the Capitol, and we have granted a pension or relief in some form within three or four days to another person who fell through a trap-door in the Capitol, as I understand.

One of the cases that came up the other day was that of a colored man whom Senators may remember seeing about Washington with both legs amputated just by the knee stumping around the city. He was a teamster, just as this man was, and lost both his legs by the explosion of a shell. There is the case of an engineer which I might mention, where a bill passed within a day or two pensioned the widow of an engineer. If it be true, therefore, that in extreme, unusual, and extraordinary cases such a provision may be made for persons exposed to military danger and subject to military danger who are not soldiers, the question whether the bill belonged properly to the Committee on Pensions or the Committee on Claims is an unimportant one. The Committee on Pensions, as I understand the chairman, decides to take cognizance only of that class of persons who are pensionable by the policy of our general pension laws, and to grant special relief in cases where there is some difficulty about the testimony at the office or some reason for a pension of a peculiar amount, but they adhere to the generally established policy of the pension laws; and therefore they sent this case to the Committee on Claims.

The Committee on Pensions recommended sending it there, and the Senate adopted their recommendation; but if it is a proper case for relief and a proper case for the Committee on Claims to consider whether we shall pay the man a sum of money, certainly we may without violating any proper policy give that relief in the form of a moderate subsistence to extend during the man's life, instead of giving him a sum of money which if he should die within three months would go to his executors and which would not be needed for his support at all. Therefore it seems to me the question whether it should be put into the form of an annual payment for life called a pension or a gift of money has nothing to do with the question of jurisdiction of the committee. I hope, therefore, the bill will pass.

Mr. WITHERS. I know that it is a very difficult matter to argue upon the legality of a question where strong appeals are made to the sympathies of members of the Senate; but if the Committee on Claims, to whom the case was referred by the Committee on Pensions, had reported for the relief of the party a certain sum of money as compensation for the injuries which he had received in the public service, I never would have opened my mouth against it. That is precisely what I supposed would have been done when the case was referred to the Committee on Claims. Under the provisions of the pension laws and the regulations which have hitherto controlled the action of the Pension Committee in considering these applications, this applicant was not entitled to a pension; but, inasmuch as it did appeal strongly to our sympathies, inasmuch as the injuries had been apparently received while in the service of the Government, the Pension Committee, after having once rejected the claim, subsequently recommended that it be referred to the Committee on Claims, presuming that they would consider the equities and the justice of the case in accordance with the practice of the Senate, some instances of which have been cited by the Senator from Massachusetts, and would have voted to this unfortunate individual such sum of money as in their opinion would to some degree at least secure him a provision for the future.

Mr. HOAR. Will the Senator inform me, because I have not heard it suggested from any quarter, why it is he would deem it proper to give a man three or four thousand dollars when he may die within

three or six months and need very little of it, and not give him \$25 a month, so as to relieve him during the period of his life, which will exactly coincide with his needs?

Mr. WITHERS. The difference is that, so far as I know, the system of providing pensions has been restricted by the Government to those who were in the military service of the Government. We have no civil pension-list. Therefore it is that when provision is to be made for the relief of an individual by way of pensioning him the Committee on Pensions have been given cognizance of all such cases under the provisions of the pension laws. The Committee on Claims, however, have never within my knowledge reported before to the Senate a pension bill. It does seem to me, with all due respect to that committee, that they are transcending their powers as much in reporting a bill granting a pension as if the Committee on Pensions were to take cognizance of and to report bills to pay claims against the Government.

Mr. McMILLAN. But it seems to me that the whole difficulty has arisen from the fact that the Committee on Pensions did not act as they should have done on this application.

Mr. WITHERS. I beg pardon of the Senator. The Committee on Pensions rejected the claim for a pension last year. They subsequently, when it was referred to them again and renewed, declared that it was not a case for which a pension could be voted under the provisions of the pension laws, but it constituted a claim, and, therefore, they had the bill referred to the Committee on Claims.

Mr. McMILLAN. That action of the Committee on Pensions was not communicated to the Committee on Claims. The action communicated to the Committee on Claims was that an application for a pension by this person was reported back to the Senate with the recommendation that it be referred to the Committee on Claims.

Mr. WITHERS. As it was not a case for a pension.

Mr. McMILLAN. That was not communicated.

Mr. WITHERS. But it was announced to the Senate.

Mr. McMILLAN. The bill was referred to the Committee on Claims as an application for a pension. Of course, the House having passed the bill and the bill having been referred to the Committee on Claims, the committee concluded that was the direction of the Senate; and I apprehend no other construction can be given to the action of the Senate in referring the bill to that committee.

Mr. WITHERS. The statement was made on the floor at the time the change of reference was made that it was on the ground that the Pension Committee could not grant a pension under the provisions of the pension law to this person, and therefore, as it constituted a claim rather than a pension, they asked that the bill should be referred to the Committee on Claims.

Mr. McMILLAN. I am not aware of what transpired on the floor of the Senate when this change of reference was made. The official communication to the Committee on Claims was the report of the Committee on Pensions and the action of the Senate upon that report; and upon that action we took jurisdiction of the House bill.

Mr. WITHERS. There was no written report in the case. It was merely a verbal statement at the time that it was reported back from the Committee on Pensions to the effect that this was a claim against the Government, and the Committee on Pensions therefore asked to be discharged from its further consideration, and that it be referred to the Committee on Claims. If the Senate choose to adopt the principle and to declare that any other committee of the Senate has full right and power to report on all cases of pension, I humbly submit that they had better dispense with the Pension Committee.

The PRESIDENT *pro tempore*. The Senator from Kansas objects to the present consideration of this bill.

Mr. HARRIS. I hope the Senator from Kansas will withdraw his objection, because the proof in this case shows that the petitioner is totally disabled, in need, and suffering for the allowance that this bill will give him. For us to turn from him because of the technical question that a committee the organ of this body, deemed by the Senator from Kansas, and by myself for that matter, not the most appropriate committee, has reported the bill, seems to me to be a work of injustice and hardship. For one I concur fully with the Senator from Kansas in the opinion that the petition should never have been referred to the Committee on Claims. It is a character of case that the Committee on Claims ordinarily have no jurisdiction over. They should assume no jurisdiction over such a case except where the Senate has distinctly referred it to the Committee on Claims, as was done in this case. It was perhaps the duty of the committee to consider it and to report their conclusions under that order of the Senate.

Mr. CAMERON, of Wisconsin. My colleague on the committee will remember that we had referred to us not merely a petition praying for a pension but a House bill granting a pension.

Mr. HARRIS. True, as my friend from Wisconsin reminds me, it is not only a petition praying for a pension based upon the fact that the man has been totally disabled by reason of his connection with the military service of the country, but the House acted upon the petition for a pension and granted a pension, sending a bill for his relief here, and that bill was referred to the appropriate committee and by that committee referred to the Committee on Claims. We are told that this is a claim. A claim for what? If a claim for anything it is a claim for a pension at the hands of this Government. For the services rendered by this petitioner he has been fully paid. There is no ground, legal or equitable, upon which he may demand a

sum certain from the Government unless it is upon the general ground upon which we pension people who have been disabled by reason of their connection with the military service of the country. If it is not proper to put him upon the pension-roll by special act of Congress, is it not quite as competent for the Committee on Pensions to report a bill giving him a sum certain to indemnify him for the injuries which he has received as it is for the Committee on Claims to do it? I see no reason why it is not. The Committee on Claims allows no claim except upon some legal or equitable demand for services rendered, or property lost, or means furnished to the Government. They have no more power to grant bounties and make donations than have the Committee on Pensions to do so.

Mr. WITHERS. The Committee on Claims have done so in repeated instances, at any rate. They have exercised the power repeatedly, as in the instances cited by the Senator from Massachusetts, [Mr. HOAR.]

Mr. HARRIS. No matter whether they have or have not, I am aware of no precedent of the character referred to by the Senator from Virginia.

Mr. HOAR. I cited the case of pensioning a colored man.

Mr. WITHERS. There have been at least half a dozen or a dozen, perhaps twenty cases, where relief was afforded on precisely similar grounds by the Committee on Claims.

Mr. HARRIS. But I beg to say this: no matter as to the technical question where the bill should have gone or what committee should have reported it back, I imagine that the members of both committees, who have examined the facts of this case, concur in the opinion that the man has been totally disabled by reason of his connection with the military service of the country, and is to-day in need, and in great need, of the relief that this bill will give. The only practical question is whether, upon the mere technical question that this bill is reported by the Committee on Claims, and not by the Committee on Pensions, we shall turn our backs upon him and leave him to suffer on until another session of Congress or until another Congress may find some mode of regularly remedying the evil under which he suffers to-day. I quite concur with the Senator from Kansas in the fact that the bill never ought to have been sent to the Committee on Claims. If it is proper for me to say so, I will state that, as a member of the Committee on Claims, I was decidedly in favor of sending the bill back to the Committee on Pensions for them to make whatever disposition of it in their judgment was proper, believing as I did then and do now that it is just as competent for that committee to recommend the giving of bounties or donations from the public Treasury as for the Committee on Claims.

Mr. MITCHELL. If my colleague on the committee will allow me, he will remember that it was only in consideration of the fact that the session was about to close that we agreed to recommend the bill as it came from the House. If it had not been for that fact we should have prepared a bill giving him a bounty.

Mr. HARRIS. I remember that. I hope the Senator from Kansas will withdraw his objection and let us pass the bill so as to relieve a man who is totally disabled and who needs the relief it will give.

Mr. HERFORD. All I want to say is that both committees, the Committee on Pensions and the Committee on Claims, admit that this man lost his eyesight and is to-day totally blind by reason of his connection with the military department of our Government, giving service in the late war. Both the Committee on Claims and the Committee on Pensions admit that he ought to have a bounty or a pension. They both admit that this is a meritorious case. The only ground of complaint on the part of the Pension Committee is that the Committee on Claims has reported a pension for him. But the Committee on Claims is not to blame for that. The bill was in the first place referred to the Committee on Pensions. The Committee on Pensions reported it back to this body with the request that it should be referred to the Committee on Claims. The Committee on Claims have no desire to intrench on the prerogatives of the Committee on Pensions. I do hope that when this man, thus rendered blind in the service of his country, asks for bread he will not be given a stone, simply upon this punctilio, for that is all it is. Everybody who has examined the case admits his blindness, admits the cause of his blindness, and admits that he ought to have compensation in some way. This being a House bill I hope that it will pass to-day. It gives him only \$25 a month, not one-half of what would have been given him if he had been in the Army as a regularly enlisted man and had lost both eyes. He lost his eyesight as much in the service of the country as any other person ever did, and I hope he will not be turned away from this body to-day and upon a mere punctilio, for that is all there is in it.

Mr. INGALLS. The duties which the Committee on Pensions are called upon to discharge are at the best very irksome, and the service is an exceedingly thankless one. It is hard in all cases to attempt to interpose legal objections and obstacles to the granting of relief to persons who are destitute and suffering. I have endeavored during my period of five years' service on that committee to execute the law as I understood it, believing that if the law did not include those classes that ought to be pensioned the law should be changed and not violated by the continued passage of special acts giving particular privileges to particular individuals that were denied to others. For wise reasons the general pension law has declared that only those men should be subjects of pension who were enlisted either in the Army

or the Navy. The ground of this is obvious. Teamsters, civil employes, and others who were employed in the Quartermaster's Department enter upon a voluntary service. They receive compensation that is very largely in excess of what is paid to the soldier. They can depart whenever they please. They are not subject to the rules and articles of war; they cannot be punished by court-martial. If they see fit to abandon the service upon the approach of a battle they can do so and terminate their contract and no person can find fault with them.

That is the reason why civil employes and those employed in the Quartermaster's Department were regarded by the law as not properly the subjects of pension. The Committee on Pensions have endeavored to administer the law as they found it. As the Senator from Massachusetts [Mr. HOAR] has said, there is no doubt that this man suffered while he was in the employment of the Government. He is at the present time, I have no doubt, totally blind; but is he therefore the subject of pension? If he is the subject of pension, should not the law be so changed that the thousands of men who are in exactly the same condition shall have the same rights that are now proposed to be extended to this man? If that is right, then change the law so that it may be so administered; if it is not right, then, if this man has any claim upon the Government, give him a specified sum that will compensate him for the loss he has incurred, but do not give him a pension.

Mr. CAMERON, of Wisconsin. If the Senator will allow me right there, what difference is there in principle, if there is any in degree, between paying a man a sum yearly and paying him a sum in gross?

Mr. INGALLS. I am not standing here to argue questions of casuistry with the Senator from Wisconsin. I think I understand his position and he understands mine, and if he thinks he is going to draw me into a hair-splitting controversy upon questions of casuistry he is very much mistaken.

Mr. CAMERON, of Wisconsin. The Senator from Kansas is arguing against this bill because it proposes to pay this man a pension; that is, so much each year.

Mr. INGALLS. No, I am not. I am arguing against the bill because the man belongs to a class of persons who are not by law pensionable; and if they are to be made pensionable it ought to be done by an amendment of the law that will include all individuals who belong to the class.

Mr. CAMERON, of Wisconsin. Then the Senator from Kansas, I understand, says that a sum in gross ought not to be paid to him; or, in other words, that this is not a meritorious case, and nothing ought to be paid to him.

Mr. INGALLS. I say it is a meritorious case, but the man is not pensionable.

Mr. CAMERON, of Wisconsin. I understand that under the law he is not pensionable, but we propose to make him pensionable by this bill.

Mr. INGALLS. I give the Senate notice that if they decide in this case that civil employes and teamsters and men employed by quartermasters are pensionable I shall regard that as an instruction to the Pension Committee never to refuse an application of that kind hereafter. I want that distinctly understood.

Mr. MITCHELL. Will the Senator from Kansas tell me the difference in point of principle between the case reported upon by the honorable Senator from Indiana [Mr. VOORHEES] the other day and this case? I asked the question myself of the Senator from Indiana the other day whether the person referred to in the bill then pending was an enlisted soldier, and he stated distinctly that he was not. Where is the line to be drawn or where is the distinction between the two cases, the one that we passed the other day and the one now proposed, excepting that this case is reported by the Committee on Claims and the other was reported from the Committee on Pensions?

Mr. INGALLS. I think that the wayfaring man, though he had escaped from an asylum for the feeble-minded, might be able to see the difference.

Mr. McMILLAN. Explain it, then.

Mr. INGALLS. I stated distinctly that the engineer in that case had been impressed into the service of the Government and forbidden upon pain of death to leave the employment he was in. He was detained upon the boat where he was acting as engineer when he was sick, until he returned to Cincinnati, where in two hours he died. This man was a teamster, under a voluntary contract which could terminate at any moment, and at a compensation vastly in excess of what is paid a common soldier.

Mr. TELLER. I should like to ask the Senator from Kansas if the fact that the engineer was impressed made him a member of the Army?

Mr. INGALLS. The committee held that it did; that he was at that time in the service of the Government as the law specifies in the case of men enlisted who are under the direction of a superior military officer.

Mr. MITCHELL. May I ask the Senator a question?

Mr. INGALLS. Certainly.

Mr. MITCHELL. Does the Senator from Kansas hold that a man engaged as a teamster, employed in driving a team when the Army is approaching to meet the enemy, the moment a battle is about to take place, can voluntarily leave his team and go to the rear and not be subject to military control?

Mr. INGALLS. He can terminate the contract whenever he pleases.

Mr. MITCHELL. I do not think so.

Mr. BURNSIDE. The Senator from Kansas is wrong. That cannot be done.

Mr. MITCHELL. Certainly that would be a very strange doctrine. Mr. BURNSIDE. Under the ordinary power of common law the military commander would not allow him to desert his train.

Mr. INGALLS. The Senator from Rhode Island of course is authority upon all matters of military discipline. I ask him if the contract between a teamster and the military authority is not a voluntary contract.

Mr. BURNSIDE. It is a voluntary contract.

Mr. INGALLS. That is exactly what I say.

Mr. BURNSIDE. But once entered into, the man cannot leave it at his pleasure.

Mr. INGALLS. Does he not receive compensation very largely in excess of what is paid to the common soldier?

Mr. BURNSIDE. Yes.

Mr. INGALLS. Certainly he does. Then is he upon the same footing as the common soldier?

Mr. BURNSIDE. No; but he cannot leave his team until the termination of his contract.

Mr. INGALLS. What does the Senator from Rhode Island mean by saying that the contract is voluntary?

Mr. BURNSIDE. I mean that he enters into it voluntarily; but once having entered into it, he is bound to stay.

Mr. INGALLS. Bound to stay how long?

Mr. BURNSIDE. He is bound to stay until the contract is ended, or until the military commander lets him go.

Mr. INGALLS. Of course it is presumptive in me to differ with the Senator from Rhode Island upon military matters, but the contract of a teamster, I affirm again, is just exactly the same with the military authorities as with a man who engages a teamster to transport merchandise. The man does not hire for a specified time, but he hires at so much a month, and he can quit whenever he has a mind to do so. How much a month is it that a teamster receives?

Mr. BURNSIDE. About \$30.

Mr. INGALLS. And rations?

Mr. BURNSIDE. Thirty dollars and rations, I think.

Mr. INGALLS. Thirty dollars a month instead of thirteen, or fifteen, or sixteen, with no liability to danger, and with a right to terminate the contract whenever he pleases. Yet the Senate is asked to establish the principle that these voluntary employes of the military service are to be pensionable exactly the same as the common soldier who serves at vastly less compensation, and who if he deserts in the presence of danger is liable to be shot by drum-head court-martial.

Mr. BURNSIDE. The Senator from Kansas will allow me to say one word. I wish to correct a wrong impression that he has formed. I think a teamster is not upon the same footing as the common soldier and should not be so treated when we allow pensions; but I do say that any man connected with the Government service can make an exceptional case, and that is exactly what the Committee on Pensions is raised by the Senate to consider. Its function is to determine what cases should be exceptional, and I think the case now before the Senate is certainly an exceptional one.

Mr. INGALLS. Does the Senator from Rhode Island think that the Committee on Pensions is created for the purpose of enforcing law or violating it?

Mr. BURNSIDE. I consider that the Committee on Pensions is created for the purpose of following laws that are already established, but when exceptional cases require them to act their action if approved by the two Houses of Congress and the President, becomes a law. They are not only governed by the law, but they are organized to make law for special cases. They make it lawful in such a case for the Government to put this man on the pension-roll if the Committee on Pensions had recommended the bill. The Pension Committee of the House having recommended and the House having passed a bill giving this young man a pension, if that action had been concurred in by the Pension Committee of the Senate and this bill had passed, it would have become the law of the land upon receiving the approval of the President; and the Pension Committee of the two Houses would have been acting within the sphere of their duties all the time.

Let me state the reasons why I am going to vote for this bill. In the first place, the House Pension Committee recommended that the man should be pensioned. The House adopted that recommendation and passed the bill. The bill came to the Senate and was referred to the Committee on Pensions of the Senate. The Pension Committee recognized that there was a claim, and had the bill referred to the Committee on Claims. The Committee on Claims recognized that there was a claim and adopted the House bill. Unless we act upon that bill I am satisfied that this poor fellow is not going to get a pension before the next meeting of Congress. Therefore I say it is just and right that we should act upon the recommendation of the Committee on Claims. I do not think in casting such a vote that I am at all indecorous to the Committee on Pensions. I know I have the same faith in that committee that every other member of the Senate has; but the circumstances surrounding the case compel me to give my vote now for the recommendation of the Committee on Claims; and unless we do pass this bill as it came from the House, this poor man will not get a pension before next winter.

Mr. INGALLS. I should like to ask the Senator from Rhode Island if he thinks that in case a man in the employment of the Senate should be injured by some accident, if he should fall down stairs, or a gas-fixture should become detached and fall upon his head, or any other casualty should occur to him by which he became injured, the Committee on Pensions would have the right to put that man on the pension-roll?

Mr. BURNSIDE. Without going into that question, I will say to the Senator that when a case of that kind comes up we shall act upon it, and I shall then give my views on the particular case.

Mr. INGALLS. I should like to have the Senator answer the question.

Mr. BURNSIDE. Then I will answer the question the Senator proposes. If the Committee on Pensions of the House recommended a bill pensioning such a person, and the House passed the bill, and the bill came to the Senate, and the Committee on Pensions recognized that it was a just claim, but said it was not a thing for their consideration, and the bill was referred to the Committee on Claims, and the Committee on Claims said it was a just claim, and we should think upon the whole he ought to be pensioned, and there were but two days of the session of the Senate left and no other way for that man to get justice at this session but to vote for the bill, I say yes, I would vote for it; I would not hesitate to vote for it, because I know that the action of these committees and the action of Congress by the approval of the President would make it a law; and Congress has as much right to pass such a law as to pass a general law giving pensions to soldiers who were wounded and injured during the war.

I hold that the Committee on Pensions have a right to recommend to the Senate the passage not only of general acts but of special acts, and if the Senate choose to approve them and the House approve them and the President signs them, the bills become laws of the land and they are not unconstitutional. The Committee on Pensions have a right to act upon such things. If they simply carry out the acts of Congress, they occupy the same position that the Commissioner of Pensions occupies, for his business is to carry out the laws of Congress. The Committee on Pensions, I claim, has a further duty.

Mr. INGALLS. Mr. President—

The PRESIDENT *pro tempore*. The Senator's time has expired.

Mr. INGALLS. What time has expired?

The PRESIDENT *pro tempore*. The five minutes allowed each Senator.

Mr. INGALLS. Then I ask unanimous consent to proceed.

The PRESIDENT *pro tempore*. Is there objection? The Chair hears none.

Mr. INGALLS. I am going to make this a test case. I distinctly announce that the Committee on Pensions understand the law to be that persons not enlisted in the military or naval service of the United States are not pensionable. They have acted upon that view for the past five years. They have subjected themselves to great obloquy and much hostile criticism by that course, and also to a great deal of personal discomfort and inconvenience. There are thousands of men belonging to this class that have been injured while they have been in the military or naval service of the country. If the Senate believe that this class of men are pensionable, and they say so by this vote, I shall regard it as an instruction hereafter to construe the law in that way; and if Senators desire to add to the pension-roll by increasing the list by this method, I shall be perfectly willing to consent to it. I shall call for the yeas and nays upon the passage of the bill.

Mr. CAMERON, of Wisconsin. I desire to call the attention of the Senator from Kansas to a case that came up from his own State, the case of a Mr. Schreiner.

Mr. INGALLS. I do not know anything about it. That was long before I came here.

Mr. CAMERON, of Wisconsin. No matter about what was the time; I am talking about the principle.

Mr. INGALLS. I am only responsible for the time I have been on the committee, during the last five years.

Mr. CAMERON, of Wisconsin. I am not holding the Senator responsible. I do not think the Senate hold him responsible for it. I am simply referring to the action of Congress. A man named Schreiner, who was a resident of Kansas, was, I think, a wagoner during the war, and by some casualty he was injured and lost one of his arms.

Mr. INGALLS. Schreiner was never a wagoner and was not in the military service at all.

Mr. CAMERON, of Wisconsin. No matter; he was a civil employe in the Quartermaster's Department.

Mr. WADLEIGH. He was a pilot.

Mr. CAMERON, of Wisconsin. He was connected with the military service.

Mr. PLUMB. The Senator has the name right, but he has not stated the facts in the case as they exist.

Mr. CAMERON, of Wisconsin. I should like to have the facts stated.

Mr. PLUMB. I do not know that that case is parallel to this; but I will state the facts in that case. In regard to the case before the Senate I am entirely without advice except as I have had it in this debate. I do not know what has been the rule adopted by the Pension Committee, but the case of Schreiner has been mentioned here, and it has been in my mind ever since the discussion began. The

facts are about these: Schreiner was a pilot on a boat on the Missouri River, engaged in transporting freight and passengers. The boat was impressed into the military service for a temporary purpose in connection with the massing of troops at Lexington prior to the battle of Lexington. At that engagement Schreiner volunteered. He of his own motion went into the battle as a gunner, but of course without any enlistment or anything of that kind. He participated in that battle, serving a gun, and in the battle lost his arm. He was not in the military service in any sense unless that could make him so; in other words, he was not enlisted. He was not impressed as a military employé in any sense at all, but went into the engagement without engagement or without obligation on the part of the Government or any of its officers, so far as I have been able to ascertain the facts in the case, and I think I am pretty familiar with them. He has received by the action of Congress a pension of \$24 a month. It is true that he was paid by the action of some quartermaster as a pilot at the rate of \$150 a month for the time that he was in hospital, but that was apparently without any warrant of law, or at all events if it was with the warrant of law he was only paid as a civil employé. I do not say that that case makes a rule; I only say that it demonstrates that whatever rule there has been has not been very rigidly applied.

Mr. PADDOCK. I should like to know if the motion pending is a debatable question. It seems to me that we are losing a great deal of valuable time here and arriving at no result. In the face of the fact that the House has refused to agree to the resolution of the Senate to extend the time of adjournment, it seems to me there ought to be an effort about this period to consider the value of time.

Mr. KIRKWOOD. We are about to do a very important thing. As a member of the Committee on Pensions, I fully concur in what our worthy chairman says of the undesirableness of that place, and I intend to devote myself with considerable earnestness to getting out of it at our next session. We ought to know what we are doing. If the Senate desires that future Committees on Pensions shall establish a civil pension-list, very well.

Mr. CAMERON, of Wisconsin. The Senate does not assume to pass upon that at all. This case is before us, and we say it is an exceptional case. When other cases come before us as exceptional cases the Senate will pass upon them.

Mr. KIRKWOOD. Every case becomes a precedent for the next case. That is the trouble.

Mr. PADDOCK. I rise to a question of order.

Mr. BURNSIDE. Allow me to ask one question.

Mr. KIRKWOOD. I am on the floor.

Mr. BURNSIDE. Will the Senator allow me to ask him a question?

Mr. KIRKWOOD. Yes.

Mr. BURNSIDE. Suppose this bill is defeated, is there anything to prevent some man situated exactly as this man is situated from making an application next winter?

Mr. KIRKWOOD. No.

Mr. BURNSIDE. Then I do not see why it can be made a precedent.

Mr. KIRKWOOD. If the Senate chooses to pension him it can. Of course the Senate can pension anybody.

Mr. BURNSIDE. I do not see that passing a bill of this kind affects our future legislation.

Mr. KIRKWOOD. We may pension ourselves if we pass laws for that purpose; but the question is whether it is right that we should do so.

Mr. BURNSIDE. I merely say that our action does not break the rules of the Pension Committee. Whatever we do here is the action of the Senate, and does not affect the rules of the Pension Committee.

Mr. KIRKWOOD. If the Senator will allow me, I will tell him what are the rules of the Committee on Pensions by which they have felt themselves bound to act. Where a question is within the scope of the pension law we have felt at liberty to recommend an increase of pension or to recommend the granting of a pension, but where a person applies who by law is not entitled to a pension at all we have not felt ourselves authorized to bring in a new class of pensioners.

Mr. BURNSIDE. Is not a man who is pensioned inside of the law all the time?

Mr. KIRKWOOD. I have no doubt if we pass a law that the law is valid. I am not disputing about that; I am only disputing whether or not we ought to establish a new law in regard to pensioners.

Mr. BURNSIDE. Will the Senator allow me to ask him whether every man who is within the law cannot get a pension without coming to the Committee on Pensions at all? Is not the function of the Committee on Pensions to provide for exceptional cases, cases where the man is outside of the law?

Mr. KIRKWOOD. We are about to pass upon the question whether or not we shall increase the pension-list.

Mr. BURNSIDE. I cannot agree with the Senator from Iowa.

#### FINAL ADJOURNMENT.

Mr. WINDOM. I ask the Senate to take up the resolution which has been received from the House with reference to final adjournment.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate the following resolution from the House of Representatives:

*Resolved*, That the House non-concur in the foregoing resolution of the Senate.

Mr. WINDOM. I move that the Senate insist upon its resolution and ask for a conference on the question of difference between the two Houses.

Mr. HOAR. I desire to inquire if that is the parliamentary method. As I understand it, we passed a concurrent resolution. The House have notified us of their refusal to concur, just as they would of their refusal to assent to a bill.

Mr. WINDOM. I am not sure as to the usage; but desiring to avoid all possible complaint that we did not seek by every means in our power to prolong the session sufficiently to pass the appropriation bills, I have made this motion. If I am not in order I certainly do not desire to press the motion.

The PRESIDENT *pro tempore*. The Chair understands the Senator from Minnesota to move a committee of conference on the point of difference between the two Houses on the question of adjournment.

Mr. WINDOM. That was my motion; but if it is not in order I do not insist upon it.

The PRESIDENT *pro tempore*. That is in order.

Mr. HOAR. I understood the motion to be to insist on a resolution which is dead.

Mr. WINDOM. I move to insist and ask a committee of conference.

Mr. WITHERS. It strikes me a committee of conference is hardly admissible in a case of this kind. Committees of conference are allowed when a difference of opinion arises between the Houses upon some provisions of a bill to the main features of which they probably agree. This is a matter which embraces but one single substantive proposition, which has been rejected by the House. What is there to confer about? There is no difference to confer about. The Senate have passed a resolution and the House have rejected it. That is the end of it, to my mind.

The PRESIDENT *pro tempore*. The Chair will remind the Senator from Virginia of the case of yesterday, when the House declined to act on a bill and sent it back to the Senate on the question of difference.

Mr. WITHERS. That was because of their objection to one provision of the bill only.

The PRESIDENT *pro tempore*. The objection was not defined. The Senator from Minnesota moves a committee of conference on the question of difference.

Mr. WITHERS. But I beg pardon of the Chair, a part of it was defined. The subject-matter of the unwillingness of the House to act upon the bill was mentioned in the resolution sent to the Senate by the House.

Mr. INGALLS. I should like to remind the Chair that in the resolution that was adopted yesterday the committee of conference could only be asked to act upon the matters of difference of opinion upon the question pending between the two Houses. It is very plain that the resolution of adjournment is not pending between the two Houses. The Senate passed a resolution to adjourn on the 20th and sent it to the House, and the House have refused to concur in it. There is therefore nothing pending between the two Houses. There is no difference of opinion upon the question which can be the subject of conference. It seems to me that the Senator from Minnesota is clearly wrong and that his object can only be reached by a new resolution of adjournment.

Mr. WYTHE and others. That is it.

Mr. McMILLAN. Before a resolution of adjournment can be effective at all, it must be passed by both Houses. The Senate has passed a resolution and the House must concur in it before it can be effective. One House cannot adjourn without the consent of the other.

Mr. MATTHEWS. Will the Senator allow me to interrupt him to say that we have concurred heretofore upon the question of adjournment, and it stands until we now change that concurrence?

Mr. McMILLAN. We have changed it so far as we can change it. We have passed a resolution changing the time of the adjournment, but that must be concurred in by the House before it can affect the present status of the question of adjournment. The House has refused to concur in the resolution adopted by the Senate, and the question is still a subject of discussion between the two Houses. Therefore it seems to me it is a subject of conference.

The PRESIDENT *pro tempore*. The Chair understands that there is a difference between the two Houses on the question of adjournment now initiated on the part of the Senate. If the House had amended the resolution by fixing "Wednesday" instead of "Thursday," as fixed by the Senate resolution, certainly the case would be very clear. Instead of doing that the House has simply negatived the Senate resolution. The question is now pending between the two Houses.

Mr. SARGENT. Is it not usual for the House in all cases where it rejects a bill passed by the Senate to send us notice that it has so done?

The PRESIDENT *pro tempore*. It is.

Mr. SARGENT. In this case the House has pursued the ordinary course.

The PRESIDENT *pro tempore*. It is the course pursued on a question of difference between the two Houses.

Mr. SARGENT. There is no difference between the two Houses where one House passes a bill and the other rejects it. That ends the subject-matter. In this case the course has been a little more formal in order to notify us of their action. Ordinarily the message stating the action of the House is merely announced and is not read at the desk. There is no question pending between the two Houses in relation to adjournment. We passed a resolution which the House

simply rejects. Then the resolution is dead; it is as dead as Hector. It cannot be revived by a committee of conference. It seems to me the Senate puts itself in a false position by sending to the House a message that it insists on its resolution and asks a conference.

It was merely a proposition of the Senate which the House rejected and it is not pending between the two Houses. I trust the Senate will not put itself in such a position. The only way we can do it is to send another resolution; but it seems to me it would not be a good idea to send another resolution. We cannot possibly get through with the sundry civil bill by the time now fixed. That is obvious. If the House takes the responsibility of adjourning on Monday at twelve o'clock that bill falls; then both Houses will have to come back immediately or some time before next December necessarily, for that bill embraces all the public buildings, all the light-houses. Without it we cannot have our light-houses on the coast after the 30th day of June. It embraces all the surveys of the public lands, all the great miscellaneous purposes of the Government not embraced in the other regular appropriation bills; and we must meet soon after the adjournment upon the call of the President unless the House consents to a prolongation of the session for a day or two. It seems to me it would be better for us to leave the House to consider that problem. I have no doubt they will solve the difficulty by sending us a resolution extending the time. When they send a resolution here we can concur in it or name another day in the resolution, and then there will be a disagreeing vote between the two Houses. I trust the Senate will not subject itself to a necessary parliamentary rebuff by insisting upon a resolution which the House has absolutely rejected and which is not pending between the two Houses in any form now.

Mr. WINDOM. I ask that the question may be taken on my motion if it is in order. If it is not in order, of course it will fall.

The PRESIDENT *pro tempore*. The Chair will put the question on the motion of the Senator from Minnesota. In what form does the Senator wish the motion put?

Mr. WINDOM. That the Senate insist upon its action and ask for a committee of conference.

The PRESIDENT *pro tempore*. The Senator from Minnesota moves that the Senate insist on its action upon the resolution of adjournment and ask for a committee of conference.

The motion was not agreed to.

Mr. WINDOM. All right. I move that the Senate adjourn.

The PRESIDENT *pro tempore*. The Senator from Kansas objects to the consideration of the bill which has been pending in the Senate.

Mr. SARGENT. We want to finish that bill.

Mr. WINDOM. We may as well do the entire business at an extra session as now.

Mr. SARGENT and others. Oh, no.

Mr. WINDOM. I withdraw the motion to adjourn.

JOHN S. HALL.

Mr. HEREFORD. I move to lay aside all other orders for the purpose of taking up the bill (H. R. No. 762) granting a pension to John S. Hall, of West Virginia. As I said to the Senate before, (but there was so much noise I presume I was not heard,) we reached this bill in its regular order on the Calendar. We are called out every few minutes by some person or other, and just at that moment I was called out, so that when that bill was reached in its regular order on the Calendar I was out of the Chamber. I simply ask the courtesy that the bill may not lose any rights on account of my temporary absence from the Chamber. My motion therefore is to lay aside all other orders and take up the bill.

The PRESIDENT *pro tempore*. The Senator from West Virginia moves that the present and all prior orders be postponed for the purpose of taking up the bill he has named.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill. It directs the Secretary of the Interior to place on the pension-roll the name of John S. Hall, of West Virginia, late an enlisted teamster in the service of the United States, at the rate of \$25 per month, he having become totally blind from disease contracted in the service.

Mr. COCKRELL. As a member of the Committee on Claims I dissented from the action of that committee in reporting a pension bill. I conceive that the Committee on Claims has no power or authority or jurisdiction whatever, directly or indirectly, to report a bill placing any person's name upon the books of the Interior Department as a pensioner. If this case had been presented to the Committee on Claims purely as a claim for a given amount, I should have felt very much inclined to support the granting of some amount. Had it come from the Committee on Pensions, either with a favorable or an adverse report, I should have been disposed to favorably consider it. I simply desire to state that I dissented from the Committee on Claims *in toto* in regard to that committee having any power whatever in the case. I regard it as an assumption of power on the part of that committee which it has no right to assume.

Mr. McMILLAN. I was of opinion that the Committee on Pensions should have acted on this case, and only consented to take jurisdiction of it because it had been referred to the Committee on Claims by the Senate at the instance of the Committee on Pensions and was a House bill; and so I have nothing further to say by way of apology for the Committee on Claims.

Mr. DAWES. It seems to me that this question whether the Com-

mittee on Claims could report this bill or not has been given undue importance. I agree with all the gentlemen that it belongs to the Committee on Pensions to consider applications for pension, but the phraseology of the rules establishing the committee, certainly in the House—I do not find it in the Senate rules—is to consider certain subjects and such other subjects as shall be committed to them. Inasmuch as the Senate committed this bill to the Committee on Claims, it gave the Committee on Claims the jurisdiction of the whole subject and it was their duty to report upon it in the proper form without any regard to what was the original jurisdiction of the Committee on Claims. The Committee on the Judiciary this session has taken upon itself all the business of the Committee on Railroads from beginning to end. The Committee on Railroads has been happily relieved of all responsibility in reference to railroads by the industry of the Committee on the Judiciary.

Mr. CHRISTIANCY. If the Senator from Massachusetts will allow me, I must beg leave to differ with him. The Committee on the Judiciary took jurisdiction of nothing which the Senate did not command it to take jurisdiction of.

Mr. DAWES. Exactly; and that is what I was going to say. I never did get up yet to make a speech but what some Senator anticipated me and said just what I was going to say.

The Committee on the Judiciary did perfectly right. I was going to state in a minute that it did perfectly right, because the Senate concluded that the Committee on the Judiciary did not have business enough of its own and ought to take the business of the Committee on Railroads, and they committed it to the Committee on the Judiciary, and when the Committee on the Judiciary reported back a railroad bill the Committee on Railroads and the Senate did not spend all the afternoon in discussing the propriety of their reporting such a bill. Having had the jurisdiction committed to them by a vote of the Senate, of course it was proper for them to exercise that jurisdiction and to exercise it properly and in just the way the Committee on Railroads would. The Committee on Railroads would have done exactly what the Committee on the Judiciary did, if the Senate had not charged the Committee on the Judiciary with doing it.

Now, there is this addition in this case, that the Committee on Pensions asked the Senate to do this thing. The Committee on Railroads did not ask the Senate to take railroads out of their hands and commit that subject to the Judiciary Committee. The Judiciary Committee asked it themselves and the Senate, properly enough, granted it. But the queer thing about this case is that after the Committee on Pensions asked the Senate to clothe the Committee on Claims with the jurisdiction of this whole subject, they come back at that committee and complain of it because it did take the jurisdiction. Now, I think that they should take a lesson from the resignation, if I may so call it, of the Committee on Railroads. They should take a lesson from the acquiescence of the Committee on Railroads in the action of the Senate, which just took all their business away from them and gave it to the Committee on the Judiciary. This Committee on Pensions should not ask the Senate to clothe the Committee on Claims with jurisdiction on this subject if they did not want this action taken.

Mr. CHRISTIANCY. Mr. President, I agree with my friend from Massachusetts, who has just addressed the Chair, that this subject having been referred to the Committee on Claims, it was the duty of the Committee on Claims to exercise its best judgment as to the remedy which they ought to report in favor of. They might have reported, it is true, in favor of allowing a gross sum, or allowing nothing at all; or they might have reported in favor of allowing a certain sum per year, which I suppose might go by the name of a pension. I cannot for my life see that the case differs at all from what it would be if it came from the Committee on Pensions. Neither the Committee on Pensions nor any other committee can make law. All they can do is to carry out the order of the Senate, and that is what this Committee on Claims have done.

And now I wish to say one thing upon the merits. Teamsters are just as essential, their services are just as necessary in an army in its movements, in carrying its provisions, its ammunition, as soldiers themselves; and, in my opinion, if they receive wounds or injuries in that service, they are on every principle of justice just as much entitled to a pension as the enlisted man. I cannot see the distinction. But a distinction is raised by the Senator from Kansas between this and a case where a man is impressed. Now I wish to put this question, which seems to me a pertinent one, whether a man's service is any the less meritorious because he voluntarily performs it in behalf of the Government than when he is compelled to perform it by impressment. In my opinion, the man who does it voluntarily deserves more. That is all I have to say.

Mr. INGALLS. Mr. President—

Mr. PADDOCK. If it be in order, if the Senator will yield to me—

Mr. INGALLS. I yield with great pleasure.

Mr. PADDOCK. I present the following—

Mr. CAMERON, of Wisconsin. I think we had better go on with the bill under consideration.

Mr. HEREFORD. I object to anything being interposed. The object is delay.

Mr. INGALLS. Mr. President, I have not a particle of feeling on this subject. I am not urging this matter upon the attention of the

Senate because the Committee on Pensions have any question of punctilio between themselves and the Committee on Claims, but the Committee on Pensions have been endeavoring for five years to administer the law as they find it. This proposed action of the Senate admits to the pension-rolls a man not pensionable, and, as I said before, I propose to make this a test case, and to receive the vote that is to be given by the Senate on this bill as an instruction to the Pension Committee that the Senate propose to have civil employes of the Government placed on the pension-list. There are thousands of men who are just as much entitled to pension as the beneficiary of this bill. Their claims have been rejected by the Committee on Pensions upon the grounds I have previously stated. If this principle is to be adopted it will add to the pension expenditure of the Government probably a million dollars a year; and all that I want to say, all that I ask, is that the yeas and nays may be taken upon this bill understandingly, and I give notice that I shall regard the action of the Senate as final instructions to the Committee on Pensions, and I believe that in saying that I speak also the sentiments of all the other members of the committee.

Mr. TELLER. One would suppose from the remarks of the Senator from Kansas that this was the first proposition to pay a pension to an individual who was not strictly a member of the Army. The Senator from Kansas and every other Senator in the Chamber is aware that the precedent has already been established a long time ago and for men not as nearly and closely connected with the Army as this man was. Now we are told in substance by the chairman of the Committee on Pensions that if the Senate dare to take this action his committee will henceforth—I infer at least that is the course they mean to pursue—govern their future course by what is done now, and I presume he means we shall understand that hereafter they will allow a pension to all parties who make application, whether they were in the Army or not. Now, Mr. President, I do not suppose the honorable Senator means that we shall understand him that he proposes to allow it unless they are worthy persons.

Mr. INGALLS. I mean to say that if any man not an enlisted man, a civil employe, an employe in the Quartermaster's Department, a sutler, a laundress, a *vivandière*, a camp-follower in any capacity whatever, temporarily rendering service during a battle or in any emergency, receives an injury while in that capacity, I shall regard this action of the Senate as instruction to the Pension Committee that such a person ought to be placed on the pension-list.

Mr. TELLER. That is about what I understand the Senator to mean. I understand he meant to say that heretofore the committee had confined themselves to the strict rule of the statute and now they would feel at liberty to do otherwise. If the case is a meritorious case, deserving of the consideration of the nation, then that is just exactly what that committee ought to do and it is just exactly the purpose for which that committee was created. The honorable Senator and his co-associates upon the committee will simply carry out the object and purpose of the Committee on Pensions. A pension is a bounty of the Government granted to a man who has been in the public service.

Mr. INGALLS. A bounty?

Mr. TELLER. A bounty.

Mr. INGALLS. The Senator and I differ.

Mr. TELLER. I do not mean to say that in the ordinary term of bounty, perhaps, but it is an act of generosity on the part of the Government.

Mr. INGALLS. I think the man earns it. I do not think it is generosity.

Mr. TELLER. The Government enters into no contract, when a man agrees to serve the Government, that it will give him a pension. It is no part of his contract. Some governments give pensions to their soldiers and some do not.

Mr. INGALLS. Does the Senator say that under the regularly established precedents of this Government it would not now be held that, if a man volunteered or enlisted in the military service and was injured, there was not an implied contract that he was to have a pension?

Mr. TELLER. Let me ask the honorable Senator from Kansas if he will take the position that when a man goes into the Army and he is wounded, and the Government sees fit after that time, and before he is placed on the pension-list to abolish the pension-list, he can sue the Government and recover. That is what determines a contract. Nobody pretends that it is any part or portion of the contract that the Government will maintain its pension-list on the statute-book.

Mr. INGALLS. If the Senator supposes that there are no contracts except those upon which suit can be brought, of course I cannot answer his argument.

Mr. TELLER. The truth is we have always had that under our control. We have the right to enlarge it by a general act if we see fit, we have a right to enlarge it for special cases, and there can be no reason, as stated by the Senator from Michigan, why the man who has jeopardized his life in one service of the Government is not as much entitled to a pension as in the other. We have seen fit in the general statutes to confine it to the enlisted men, and yet all through the statutes can be found cases where we have declared by the action of both Houses of Congress and the approval of the Executive that they appealed to the Government to take them out of the usual rule of the statute.

Mr. WITHERS. Will the Senator permit me to interrupt him for an inquiry?

Mr. TELLER. Certainly.

Mr. WITHERS. I merely wish to ask whether he considers it within the province of the Pension Committee to grant pensions to persons not authorized by law to receive them?

Mr. TELLER. I will say that the Pension Committee have not the power, if they have the inclination, to grant a pension. That is a matter that Congress may do. They never grant it to a man who is entitled by law to receive it, because it is not necessary that he shall come to the Pension Committee or to Congress either. The committee is raised for the express purpose of managing and bringing before Congress in a proper way the exceptional cases, and the committee have no right to confine their inquiry to enlisted men.

Mr. WITHERS. Although the law so specifies?

Mr. TELLER. The law does not so specify. The law says when this committee was created, "Look at all cases and see whether the Government should by a special act"—for that is the only way they can act upon the recommendation of the committee, by a special act—"relieve where the general statutes fail to relieve."

Mr. WITHERS. There is no such provision in the general law or in the Revised Statutes which authorizes them to exceed the conditions and specifications laid down in the Revised Statutes.

Mr. TELLER. Then there is no use of the committee.

Mr. WITHERS. It seems not.

Mr. TELLER. The committee report to the Senate and the Senate then adopt the report by the passage of a law or reject the report. Take this case: the honorable chairman of the Committee on Pensions complains that this Committee on Claims have violated a courtesy due perhaps to his committee—

Mr. INGALLS. Oh, Mr. President, I did not base a single shred of argument on that.

Mr. TELLER. If the Senator did not in fact, he did in theory.

Mr. INGALLS. If I did, I withdraw it.

Mr. TELLER. The honorable Senator from Missouri, who occupies a position on the Committee on Claims, [Mr. COCKRELL,] declares that the committee had no jurisdiction of the subject, and yet the jurisdiction was specially conferred upon that committee when this Senate sent the bill to that committee.

Now, Mr. President, what was sent to the Committee on Claims? Was it a petition for a bounty? Was it a petition for an annuity? It was a bill that had passed the House providing that this man should have a pension, and it was sent to the Committee on Claims to determine whether the action of the House was of such a character as to commend itself to the Senate. It was impossible to direct instruction to that committee to say whether he was entitled to a pension, and it is no discourtesy to the Committee on Pensions and it is no usurpation of power on the part of that committee when they report back the bill favorably which was sent to them for consideration.

Mr. OGLESBY. May I ask the Senator from Colorado if the Committee on Claims brought back a written report?

Mr. TELLER. They made a written report recommending the passage of this bill that had already passed the House and had been referred to them by a vote of the Senate at the request of the Committee on Pensions.

Mr. WALLACE. I desire to apologize to the Senate for attempting to enforce the rule; but I ask that the rule be enforced.

Mr. INGALLS. We are not acting under rule.

The PRESIDENT *pro tempore*. Which rule does the Senator from Pennsylvania refer to.

Mr. WALLACE. The rule as to bills on the Calendar.

Mr. INGALLS. Certainly not. The Calendar has been set aside. We can discuss this as long as we please.

Mr. WALLACE. I suppose discussion on this bill will continue all day if it is not restricted.

The PRESIDENT *pro tempore*. The Senator from West Virginia moved to postpone the present and all prior orders, which leaves it open to general debate.

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

Mr. INGALLS. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and the Secretary proceeded to call the roll.

Mr. HILL, (when his name was called.) On the passage of this bill I am paired with the Senator from Indiana, [Mr. McDONALD.] If he were here, he would vote "yea" and I should vote "nay."

The roll-call having been concluded, the result was announced—yeas 38, nays 7; as follows:

## YEAS—38.

Allison,	Dennis,	McPherson,	Ransom,
Bayard,	Eustis,	Matthews,	Rollins,
Blaine,	Gordon,	Macey,	Saunders,
Bruce,	Hereford,	Merrimon,	Spencer,
Burnside,	Hoar,	Mitchell,	Teller,
Cameron of Pa.,	Johnston,	Morgan,	Thurman,
Cameron of Wis.,	Jones of Florida,	Oglesby,	Voorhees,
Christiancy,	Jones of Nevada,	Paddock,	Whyte.
Coke,	Kellogg,	Plumb,	
Dawes,	Kernan,	Randolph,	

## NAYS—7.

Booth,	Eaton,	Kirkwood,	Withers.
Ingalls,	Morrill,		

## ABSENT—31.

Anthony, Armstrong, Barnum, Beck, Butler, Chaffee, Cockrell, Conkling,	Conover, Davis of Illinois, Davis of West Va., Dorsey, Edmonds, Ferry, Garland, Grover,	Hamlin, Harris, Hill, Howe, Lamar, McCreery, McDonald, McMillan,	Patterson, Sargent, Sanbury, Sharon, Wadleigh, Wallace, Windom.
---	--	---	---

So the bill was passed.

## LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. WINDOM. I ask leave to make a report from the committee of conference on the legislative bill.

The PRESIDENT *pro tempore*. The report will be read.

The Secretary 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. 4104) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes, having met, after full and free conference, have been unable to agree.

WM. WINDOM,  
W. B. ALLISON,  
JAMES B. BECK,  
*Managers on the part of the Senate.*  
J. D. C. ATKINS,  
M. J. DURHAM,  
CHARLES FOSTER,  
*Managers on the part of the House.*

Mr. WINDOM. I move the adoption of the report and will state that the relations are not at all different from what they were when the committee reported yesterday, and when the vote of the Senate was taken. I will not repeat what the disagreement is.

Mr. CONKLING. What is the motion?

Mr. WINDOM. I move that the Senate agree to the report, and insist upon its amendments and ask for a new conference.

Mr. DAWES. I would inquire, if it is proper to inquire, whether the committee have been able to agree upon any part of the differences, so that the differences of the two Houses may be reduced to particular items. Then it would be in the power of one House or the other to recede from its position on particular items if the conferees were able to agree upon the other portions of the bill, so as to reduce the unalterable difference between the two Houses to as few points as possible. Then the question could be fairly presented to either House whether they would not recede rather than lose the bill.

Mr. WINDOM. I will say, as I stated the other day, that I have no doubt at all an agreement could be reached on all the points except the one with reference to the Senate employes, their compensation and number.

Mr. DAWES. It seems to me we hasten business by the course I intimated, and it is in accordance with the theory of conference committees. The rules give preference before any other votes to any motion that will have a tendency to bring the two Houses together. Such a motion takes precedence of any other in either body. Therefore any action by this committee that tends to bring the two Houses together, it seems to me, is desirable. Of course we cannot instruct a conference committee; but I simply make this inquiry, not in the way of proposing any instruction.

Mr. WINDOM. The conferees on the part of the Senate have fully considered the suggestion made by the Senator from Massachusetts and have deemed it advisable to submit the report in the form it is presented. The matter has been fully discussed by the conferees and has not been by any manner of means overlooked.

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

The motion was agreed to.

By unanimous consent, the President *pro tempore* was authorized to appoint conferees at the further conference on the part of the Senate, and Mr. WINDOM, Mr. ALLISON, and Mr. BECK were appointed.

## PRESIDENTIAL APPROVALS.

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

An act (S. No. 1208) authorizing the publication for sale of an edition of the Narrative of the Polaris Expedition;

An act (S. No. 1272) to amend section 4127 of the Revised Statutes of the United States, in relation to the judicial powers and functions of consuls; and

A joint resolution (S. R. No. 34) granting the use of artillery, tents, &c., at the soldiers' reunion to be held at Centerville, Iowa.

## FINAL ADJOURNMENT.

Mr. WHYTE. Mr. President, in view of the fact that the committee of conference on the legislative bill has disagreed, I think it eminently proper to make another effort to extend the period of the session.

Mr. SARGENT. Let it come from the House.

Mr. WHYTE. If we wait for it to come from the House, we shall be in session all day Sunday.

Mr. SARGENT. Let it come from the House.

Mr. WHYTE. I will wait awhile.

## WITHDRAWAL OF PAPERS.

On motion of Mr. PADDOCK, it was

Ordered, That the papers in the case of Augustus Sprague be taken from the files and returned to the claimant under the rule.

## SUNDRY CIVIL APPROPRIATION BILL.

Amendments were submitted by Mr. BARNUM, Mr. CAMERON of Wisconsin, Mr. KERNAN, Mr. MATTHEWS, Mr. MERRIMON, Mr. MITCHELL, Mr. MORRILL, Mr. PADDOCK, Mr. PLUMB, Mr. SPENCER, and Mr. TELLER, intended to be proposed by them respectively to the bill (H. R. No. 5130) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. DAWES, from the Committee on Public Buildings and Grounds, reported an amendment intended to be proposed to the bill (H. R. No. 5130) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

## REPORTS OF COMMITTEES.

Mr. MAXEY, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1354) to confer upon Army boards of the United States Army, organized by the President to review sentences of courts-martial, authority to compel attendance of witnesses, and to send for persons and papers, as is now given by law to courts-martial, and for other purposes, reported it without amendment.

Mr. HOAR, from the Committee on Claims, to whom was referred the bill (H. R. No. 2883) for the relief of Murphy & Good, of Indianapolis, Indiana, reported it without amendment.

Mr. SARGENT, from the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 5179) relative to examinations for promotions in the Navy, reported it without amendment.

## BILL INTRODUCED.

Mr. MAXEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1406) making an appropriation for the repair and improvements of the United States barracks at Austin, Texas; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

## RECESS.

Mr. SARGENT. I move that at five o'clock the Senate take a recess until eight.

Mr. CONKLING. I wish the Senator from California would let us understand the object of that.

Mr. SARGENT. Simply to proceed with the business of the Senate.

Mr. CONKLING. To go on with the Calendar?

Mr. SARGENT. Yes, sir, there are a great many cases on the Calendar that ought to be passed.

Mr. CONKLING. If we are to remain here until Thursday or even Wednesday, I do not believe Saturday night is a good time to hold a session to go on with the Calendar.

Mr. SARGENT. We do not know that we shall continue here until Wednesday; we do not know that we shall continue here after Monday at twelve o'clock. Senators who are able to be in the Senate all the time watching the Calendar can afford to adjourn at six o'clock if they choose, but I cannot. I have been the last four or five days very little in the Senate. I should like to be here to-night to have the Calendar proceeded with. I know that other Senators desire to proceed with business on the Calendar. We have not had a night sitting this whole session except on two occasions, and those short sessions, when there was a case pending which the majority of the Senate desired to determine. We probably shall have no night session, and certainly not if we adjourn next week on Wednesday.

There is no particular hardship in having a night session to-night, and I should like to have it for the especial reason that the House is holding night sessions, and I wish to be notified as to the action of the House on the adjournment resolution. It is very necessary in order to inform the Committee on Appropriations whether we are to work all day to-morrow or not. Although I think for it to work to-morrow would be hopeless, still it is the duty of the committee to do everything it can to try to finish the business.

I think these are good reasons, and I trust the Senator will not interpose his personal convenience against reasons like these.

The PRESIDENT *pro tempore*. Debate is out of order except by unanimous consent.

Mr. CONKLING. I am aware of that, but I was about to propose to reply to the Senator from California. First of all I beg to say to him that my personal convenience has nothing on earth to do with the question I asked him. The matter does not concern my personal convenience; but the Senate is very thin; it is Saturday night, and no notice was given of a night session.

Mr. SARGENT. There is a very large quorum here.

Mr. CONKLING. We all see precisely how large the quorum is; and if I succeed in making one statement to the Senator from California, I shall have accomplished my whole purpose. The Calendar goes on here in a very miscellaneous way; I do not say too much so, but causes on the Calendar go through very rapidly under this rule, and a night session held on Saturday night without notice having been given, will bring here so thin a Senate that I do not think the Calendar should proceed for unobjected cases with such a Senate as I believe will be here; and therefore if any Senator who comes here deems it his duty to object I hope the Senator from California will not misunderstand me if it happens to be me. It is bad enough to have cases go without note or comment if there is a tolerably full

Senate, the presumption then being that something about each case is known to some Senator who is present; but to have the Calendar called with a bare quorum or less than a quorum present I do not think would be right.

Mr. SARGENT. I ask the indulgence of the Senate to say one word. There are forty-six Senators here in the Chamber by count, so that, as I said before, at the time of interrupting the Senator from New York, I supposed not offensively, there was a large quorum. In the interest of the business on the Calendar, I trust the motion I have made will be adopted that we may be allowed to proceed with the Calendar to-night.

The PRESIDENT *pro tempore*. The Senator from California moves that the Senate take a recess at five o'clock until eight.

Mr. WHYTE. I ask the consent of the Senate to say one word. I trust that the Senate will sit for the next two or three hours in preference to adjourning or taking a recess and coming back to-night. We have rarely done anything at the night sessions, especially when going over a Calendar of various cases. We can sit for two or three hours longer now, and do quite as much business as can be done between eight o'clock and ten to-night. If you wait here until six o'clock now, you will do more than if you come back to-night. We have had experience of night sittings at the close of sessions. They are generally taken up by a buncombe speech by somebody or other the whole night.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from California that the Senate take a recess at five o'clock until eight o'clock this evening.

The motion was agreed to; there being on a division—ayes 32, noes 15.

#### EXECUTIVE SESSION.

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

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

While in executive session, the time for taking a recess was extended from five o'clock to five o'clock and fifteen minutes p. m.; at which time the doors were reopened, and the Senate took a recess until eight o'clock p. m.

#### EVENING SESSION.

The Senate reassembled at eight o'clock p. m.

#### RAILROADS IN NORTH CAROLINA.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of the 8th instant, a report of the Quartermaster-General showing when the Government took possession of the Atlantic and North Carolina Railroad, the Raleigh and Gaston Railroad, the Wilmington and Weldon Railroad, and the North Carolina Railroad, the length of time it had possession, the rates of fares and freight it established, &c.; which was ordered to lie on the table and be printed.

#### ORDER OF BUSINESS.

Mr. PADDOCK. I should like to call up Senate bill No. 1404, a bill reported unanimously by the Committee on the Judiciary, to provide for the holding of a term of the district and circuit courts at Lincoln, the capital of my State.

Mr. MORRILL. I do not object to the bill, but I do object to any business being done without a quorum in the Senate. There are not a dozen Senators present. I object to passing any bills until there is a quorum.

Mr. SPENCER, (at eight o'clock and fifteen minutes p. m.) I should like to inquire what is the order before the Senate.

The PRESIDENT *pro tempore*. The order is silence until there is a quorum. [Laughter.]

Mr. SARGENT, (at eight o'clock and twenty minutes p. m.) Mr. President, I ask that the roll of the Senate be called.

The PRESIDENT *pro tempore*. The Secretary will call the roll.

The Secretary proceeded to call the roll, and was interrupted by—

Mr. SARGENT. Before the roll-call is finished I wish to interrupt it by moving that the Senate proceed to the consideration of executive business.

Mr. SPENCER. You cannot do it unless there is a quorum.

Mr. SARGENT. How do you know there is not a quorum? It has not been disclosed.

Mr. COCKRELL. The roll-call cannot be interrupted.

The PRESIDENT *pro tempore*. It is not in order to interrupt the roll-call.

Mr. PADDOCK. I believe I hold the floor when it appears that there is a quorum.

The PRESIDENT *pro tempore*. Is there objection to the motion of the Senator from California that the Senate proceed to the consideration of executive business?

Mr. McPHERSON. I object. I think we should proceed with the call of the Calendar.

Mr. SARGENT. I hope the Senator will withdraw the objection.

Mr. McPHERSON. I withdraw it.

Mr. SARGENT. Mr. President—

Mr. PADDOCK. I ask the Senator to give way a moment until the bill which I have referred to can be taken up.

The PRESIDENT *pro tempore*. The Senator from Vermont [Mr.

MORRELL] has objected unless there is a quorum; and unless by unanimous consent the Senate proceeds to the consideration of executive business the Chair will insist on the roll-call. Is there objection to proceeding to the consideration of executive business? The Chair hears none, and the Sergeant-at-Arms will clear the galleries and close the doors.

The Senate proceeded to the consideration of executive business. After thirteen minutes spent in executive business the doors were reopened.

Mr. PADDOCK. I now move that Senate bill No. 1404 be taken up.

Mr. COCKRELL. I want to know if there is a quorum before we do business, for I am opposed on every reasonable principle to doing business until there is a quorum.

The PRESIDENT *pro tempore*. The roll of Senators will be called to ascertain.

The Secretary proceeded to call the roll.

Mr. DAWES, (when Mr. HOAR'S name was called.) I want to state that my colleague has been taken ill and was obliged to leave the Hall. He is paired on all political questions.

The roll-call was concluded.

The PRESIDENT *pro tempore*. Forty-three Senators have answered to their names. A quorum is present.

#### COMMITTEE ON APPROPRIATIONS.

Mr. WINDOM. I move that the Committee on Appropriations have leave to sit during the sessions of the Senate.

The motion was agreed to.

#### COURTS IN NEBRASKA.

The PRESIDENT *pro tempore*. The Senator from Nebraska [Mr. PADDOCK] moves the present consideration of the bill named by him.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 1404) to provide for the holding of a term of the district and circuit courts of the United States at Lincoln, Nebraska.

Mr. DAVIS, of Illinois. One word. I ask the Senator from Missouri [Mr. COCKRELL] to give me his attention. The Judiciary Committee have not had time to consider all the cases relating to the subject of courts in the different States. A House bill was referred to the Judiciary Committee which does not divide the State of Missouri but creates another court at Kansas City, and that bill we would have considered at once but that some remonstrances have been received about it and a member of Congress, [Mr. REA]—I do not know what district he represents in Missouri—

Mr. COCKRELL. The ninth district.

Mr. DAVIS, of Illinois. He was introduced to me by the Senator from West Virginia [Mr. HEREFORD] and requested to be heard on that bill. We were unable to give him a hearing; and in consequence of his wish on that subject and also of the remonstrances upon it, the bill will have to be passed over until the next session of the Senate.

Now this bill in relation to a court at Lincoln, Nebraska, has been before the Judiciary Committee all winter and there were several petitions on the subject. They wish to divide the State into two judicial districts and get a new judge there; but we have concluded that they ought to have a court at Lincoln, which is the capital of the State, and we provide for one term a year alone.

Mr. COCKRELL. The Senator from Illinois understands that the Missouri bill is not to create a new judicial district in Missouri, but simply to authorize the holding of a court at Kansas City.

Mr. DAVIS, of Illinois. I was aware of that, but on account of this appropriation the bill cannot be considered. We had not time to hear Mr. REA; we had not time to give the remonstrants an opportunity to be heard. So it was with the bill in relation to the courts in Mississippi. It came here and went to the Judiciary Committee, and the Senator from Mississippi [Mr. LAMAR] wanted it considered at once; and a member of Congress (if I am in order to state so) came over here and requested to be heard on that subject, a member of Congress from Mississippi, and we were therefore unable to consider that because we had not the time to hear him.

Mr. COCKRELL. The Representative, Mr. REA, from the ninth district—

Mr. DAVIS, of Illinois. Mr. REA is a member of Congress from one of the districts.

Mr. COCKRELL. Yes, from the ninth district. Has he filed any written objections?

Mr. DAVIS, of Illinois. None in the world, but he wished to be heard about it.

Mr. COCKRELL. Before the committee?

Mr. DAVIS, of Illinois. Yes, sir; and I told him there was no opportunity of his being heard; we could not meet any more, and the case would therefore have to go over until next winter.

Mr. COCKRELL. It is not the only case before the Judiciary Committee?

Mr. DAVIS, of Illinois. There is a similar House bill in relation to the courts in Mississippi. There is no objection to this particular bill now before the Senate at all.

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

#### MICHIGAN JUDICIAL DISTRICTS.

Mr. CHRISTIANCY. I move to take up House bill No. 5070, to

detach certain territory from the eastern judicial district of Michigan and to attach the same to the western judicial district of Michigan, and to provide for divisions in said western district and for holding the district and circuit courts therein, and for other purposes.

Mr. COCKRELL. Let the bill be read for information.

The bill was read.

Mr. CHRISTIANCY. I will explain in just three minutes, so that every Senator will understand, all there is in this bill. It passed the Judiciary Committee unanimously. All the members from Michigan in the House were in favor of it. It just detaches the upper peninsula of Michigan from the present eastern district and attaches it to the western district. It then provides for the holding of two terms of the district and circuit courts of the western district in the upper peninsula. It adds nothing to the expense of the Government at all except one deputy clerk in the upper peninsula. It saves to the Government of the United States from \$20,000 to \$30,000 a year by way of expenses by witness fees by trying the cases in the upper peninsula instead of bringing them all down to Detroit. That is all there is of the bill.

Mr. COCKRELL. This has been acted upon by the Judiciary Committee and regularly reported?

Mr. CHRISTIANCY. Yes; without a dissenting voice.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on the Judiciary, with amendments.

The first amendment was, in section 2, line 16, to strike out "April" and insert "March;" so as to read:

The regular terms of the circuit and district courts in said southern division shall be held at the city of Grand Rapids, commencing on the first Tuesdays of March and October in each year.

The amendment was agreed to.

The next amendment was, in the same section, line 20, to strike out "March" and insert "May," and in line 21 to strike out "August" and insert "September;" so as to read:

The regular terms of the circuit and district courts in said northern division shall be held at the city of Marquette, commencing upon the first Tuesdays of May and September in each year.

The amendment was agreed to.

The next amendment was, in section 5, after the word "district," in line 7, to strike out:

And the district attorney shall appoint two assistant district attorneys, one of whom shall reside in the northern division of said district.

The amendment was agreed to.

The next amendment was, in section 6, line 5, after the word "offenses," to strike out "was or were" and insert "shall be;" in line 8, before the word "grand," to insert "one," and before the word "petit" to insert "one;" after the word "petit" to strike out "juries" and insert "jury only;" and in line 9, after the word "summoned," to strike out "for the several terms of said circuit and district courts in manner as is now or may be provided by law" and insert "and serve in both said courts at each term thereof;" so as to read:

SEC. 6. Any person charged with violating any of the penal or criminal statutes of the United States, of which the said circuit or district courts have jurisdiction, shall be proceeded against by indictment or otherwise, within the division of said district where the alleged offense or offenses shall be committed, and shall have his or her trial at a term of the said court held in the said division, unless, for cause shown, the judge shall otherwise direct; and one grand and one petit jury only shall be summoned and serve in both said courts at each term thereof; and jurors shall be selected and drawn from the division of the said district in which they reside and in which the terms of the said circuit and district courts to which they are summoned are held.

The amendment was agreed to.

The next amendment was, in section 7, line 7, after the word "transfer," to insert "civil," and after "causes" to strike out "of action;" so as to read:

Provided, however, That upon cause shown, the circuit and district courts for the eastern district may transfer civil causes arising in that portion of said district detached therefrom by this act to the circuit and district courts for the northern division of the western district of Michigan, provided for in this act.

The amendment was agreed to.

The next amendment was, after the word "act" in line 10 of section 7, to insert:

The circuit and district courts for the eastern district of Michigan shall continue to have the same jurisdiction in reference to all crimes and offenses committed prior to the passage of this act in any portion of the State of Michigan by this act detached from said eastern district and attached to said western district.

The amendment was agreed to.

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

It was ordered that the amendments be engrossed and the bill read a third time.

The bill was read the third time, and passed.

#### THE BARK CALDERA.

Mr. WALLACE. I appeal to the Senate to allow me to call up a bill that I intended to get up before. It is House bill No. 923. I have not troubled the Senate very much and I hope they will allow this bill to pass.

There being no objection, the Senate resumed the consideration of the bill (H. R. No. 923) supplementary to the act entitled "An act to carry into effect the convention between the United States and China, concluded on the 8th day of November, 1858, at Shanghai," approved

March 3, 1859, and to give the Court of Claims jurisdiction in certain cases.

The PRESIDENT *pro tempore*. The bill is on third reading in the Senate. It had reached that point and was then set aside. Unless it is insisted on it need not be read in full.

Mr. WALLACE. Read the bill again so that it shall be understood.

The Secretary read the bill.

Mr. MORRILL. Either let the report be read or let us have some explanation from the Senator from Pennsylvania.

Mr. WALLACE. Let the report be read.

Mr. KERNAN. It was read the other day.

Mr. WALLACE. It can be read again if any Senator desires.

Mr. MORRILL. I do not insist on the report being read, but I should like to know why this claim has not been settled heretofore.

Mr. WALLACE. I can state the reason very briefly. The fund was in China until 1867, when it came to the State Department. Application was made to the State Department by the parties in interest, the insurers, and they failed to have anything done there. Again and again they made application. Finally a bill came to Congress that was in the same position that this claim is. That was referred to the Attorney-General to be by him settled directly. Then these parties came to Congress and commenced proceedings in 1872 or 1873, and they have been before Congress since.

There have been two affirmative reports in favor of the bill by the House, and it passed the House twice, and one negative report, which was never acted upon by the House, but was postponed.

That is the status of the bill, and it simply sends the claim to the Court of Claims, there to be investigated and decided, and the money if adjudged due is to be paid, not out of the Treasury of the United States, but out of the money arising from the Chinese indemnity fund which is now in possession of the State Department.

Mr. MORRILL. What is the amount?

Mr. WALLACE. The amount claimed is some \$56,000.

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

The bill was read the third time, and passed.

#### TAX-LIEN CERTIFICATES.

Mr. HARRIS. The bill (S. No. 1099) to provide for the settlement of tax-lien certificates erroneously issued by the late authorities of the District of Columbia was objected to by the Senator from California.

Mr. SARGENT. I withdraw the objection.

Mr. HARRIS. The Senator is willing to withdraw the objection, and I ask for the present consideration of the bill.

The PRESIDENT *pro tempore*. Is there objection to present consideration?

Mr. ALLISON. I want to hear it reported first.

The PRESIDENT *pro tempore*. It will be read for information.

The Secretary read the bill (S. No. 1099) to provide for the settlement of tax-lien certificates erroneously issued by the late authorities of the District of Columbia.

Mr. HARRIS. There is a substitute reported by the Committee on the District of Columbia.

The PRESIDENT *pro tempore*. There is an amendment of the Senator from Tennessee, [Mr. HARRIS.]

Mr. HARRIS. I propose to withdraw it. The practical difference between the amendment proposed by me and the amendment proposed by the committee amounts to nothing.

The PRESIDENT *pro tempore*. The Senator from Tennessee withdraws the amendment. The Secretary will read the substitute reported by the committee.

The Secretary read the substitute of the Committee on the District of Columbia, as follows:

That in order to settle and pay to the holders of certain tax-lien certificates purporting to have been issued pursuant to an act of the Legislative Assembly of the District of Columbia approved June 25, 1873, which the commissioners of the District of Columbia may determine to have been erroneously issued by the late authorities of the said District against property exempt from taxation, or property upon which the taxes purporting to be represented by said certificates had been paid, the commissioners of the District be, and they are hereby, authorized to receive the same in satisfaction of any special-improvement taxes and arrearages of all other taxes prior to July 1, 1877; and immediately upon the redemption of such erroneously issued certificates the same shall be canceled, and a proper record of such payment and cancellation be made.

Mr. ALLISON. I suggest an amendment for the consideration of the Senator from Tennessee to confine it specifically to the property exempt from taxation at the time of the issue of the certificates.

Mr. HARRIS. Of course.

Mr. ALLISON. I think the words "at the time of the issue of the certificates" should be put in.

Mr. HARRIS. Some of these certificates were issued upon property exempt from taxation at the time of the issuance and some of them upon property not so exempt then.

Mr. ALLISON. Say "at the time of the issue of said certificates."

Mr. HARRIS. I have no objection to that amendment. It is exactly what is meant without the amendment.

Mr. ALLISON. The Senator from Michigan suggests:

At the time the tax was imposed.

I accept that suggestion.

The PRESIDENT *pro tempore*. The amendment will be reported.

The SECRETARY. It is proposed to insert in line 10, after the word "taxation," the words:

At the time the tax was imposed.

Mr. McMILLAN. I desire to give notice that after this bill is disposed of I shall call for the regular order. We met for the disposition of unobjected cases on the Calendar, and I want to get them disposed of.

Mr. SARGENT. I hope the Senator will not cut me off. I wish to secure the passage of a small House bill. I hope the Senator will allow that to be passed before he insists on the call for the Calendar.

Mr. ROLLINS. I do not quite understand the amendment. I am afraid it is not correct.

Mr. ALLISON. I think it right.

Mr. ROLLINS. I am not quite sure about that.

Mr. ALLISON. If the property was exempt from taxation at the time, then these certificates ought to be taken up; or, if the tax was erroneously assessed, they ought to be taken up.

Mr. ROLLINS. I think that is sufficiently guarded in the bill as it is now.

Mr. ALLISON. This only makes it more definite.

Mr. ROLLINS. I do not believe it is wise to inject matter that has not been carefully considered by the committee.

Mr. ALLISON. It only makes it more definite.

Mr. HARRIS. I beg to assure my friend from New Hampshire that there can be no possible objection to the amendment of the Senator from Iowa. The bill meant exactly that without the amendment.

Mr. ROLLINS. If the Senator from Tennessee has examined the matter, I of course withdraw my objection.

Mr. HARRIS. There can be no possible objection.

The amendment to the amendment was agreed to.

The amendment of the committee, as amended, was agreed to.

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

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

#### REPORTS OF COMMITTEES.

Mr. COCKRELL, from the Committee on Claims, to whom was referred the bill (H. R. No. 3856) for the relief of T. A. Kendig, of Louisiana, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. BUTLER, from the Committee on Military Affairs, to whom was referred the bill (S. No. 658) to authorize the restoration of Michael O'Brien to the rank of first lieutenant in the Army, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1094) for the pardon of certain deserters from the United States Army in 1848, reported it with an amendment.

#### WITHDRAWAL OF PAPERS.

On motion of Mr. BRUCE, it was

Ordered, That Nannie Hall have leave to withdraw her petition and papers from the files of the Senate.

#### PROMOTIONS IN THE NAVY.

Mr. SARGENT. I move that the Senate proceed to the consideration of House bill No. 5179.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 5179) relative to examinations for promotions in the Navy. It provides that hereafter, in the examination of officers in the Navy for promotion, no fact which occurred prior to the last examination of the candidate whereby he was promoted, which has been inquired into and decided upon, shall be again inquired into; but such previous examination, if approved, shall be conclusive, unless such fact continuing shows the unfitness of such officer to perform all his duties at sea.

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

#### OLIVER H. IRONS.

Mr. McMILLAN. I call for the regular order.

The PRESIDENT *pro tempore*. The regular order is the consideration of the Calendar. The Secretary will report the first case on the Calendar at the point where its consideration was last left off.

The bill (H. R. No. 636) granting a pension to Oliver H. Irons, late sergeant Company D, Twenty-third Michigan Volunteers, was considered as in Committee of the Whole.

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

#### EZRA O. NYE.

The bill (H. R. No. 4075) granting a pension to Ezra O. Nye, Company K, Nineteenth Michigan Volunteers, was considered as in Committee of the Whole.

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

#### SARAH J. GOSS.

The next bill on the Calendar was the bill (H. R. No. 4374) granting a pension to Sarah J. Goss; which was considered as in Committee of the Whole. It provides for placing on the pension-roll the name of Sarah J. Goss, widow of Greenberry Goss, late a pilot on the gunboat Covington.

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

#### JOSIAH KELLOGG.

The next bill on the Calendar was the bill (S. No. 1380) granting a pension to Josiah Kellogg; which was considered as in Committee of the Whole. It proposes to place on the pension-roll the name of Josiah Kellogg, late a private in Company G, Forty-sixth Regiment of Iowa Volunteer Infantry.

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

#### FORT YUMA RESERVATION.

The next bill on the Calendar was the bill (S. No. 1141) granting the right of way through the military reservation at Fort Yuma to the Southern Pacific Railroad Company.

Mr. MAXEY. I object to that.

The PRESIDENT *pro tempore*. The bill goes over.

#### JESSE STALLINGS.

The bill (H. R. No. 1348) to restore the name of Jesse Stallings, of Butler County, Alabama, to the pension-list was considered as in Committee of the Whole. It restores the name of Jesse Stallings, as a pensioner, on account of service by him in Captain Cyrus White's company, Georgia militia, in the war of 1812, to the pension-roll; and that the entry made against him on the 15th day of February, 1850, as a deserter, is in no wise to affect his right to a pension or bounty land, it appearing that the entry was erroneously made.

Mr. SARGENT. I should like to hear the report in that case read.

The Secretary read the following report, submitted by Mr. BAILEY on the 8th instant:

The Committee on Pensions, to whom was referred the bill (H. R. No. 1348) for the benefit of Jesse Stallings, have had the same under consideration, and report:

That Jesse Stallings was duly enlisted as a volunteer soldier in Captain White's company, Wimberley's Regiment of Georgia Militia, and served for more than three months in the war of 1812.

The muster-roll of his company shows that he was marked as a deserter on the 27th February, 1815, after the treaty of peace was made with Great Britain, but the pay-roll shows that he was paid to that day, and in addition was paid for two days' time, estimated as required for him to reach his home.

The explanation offered is that his company was stationed about thirty miles from his home, and Mrs. Stallings learning that the war was ended, and the soldiers returning, sent a horse to carry him home. The captain of the company told him he had not the right to discharge him, but he could go.

He was marked a deserter, but in fact was paid, as above stated, to that day and for his travel.

It is shown that the applicant has always borne an excellent character, and in the community where he has lived, to the age of eighty-five years, has been esteemed as an excellent citizen and a brave soldier. So the committee recommend the passage of the bill.

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

#### ANNA KOENINGER.

The next bill on the Calendar was the bill (H. R. No. 477) granting a pension to Anna Koeninger, widow of Louis Koeninger, late private Second Indiana Battery.

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

#### JAMES SHIELDS.

The next bill on the Calendar was the bill (S. No. 931) granting a pension to James Shields, returned from the House of Representatives with an amendment.

The PRESIDENT *pro tempore*. The amendment of the House of Representatives will be reported.

The SECRETARY. In line 7, after the word "States," the amendment is to strike out "Army" and insert "volunteers," and in the same line, after the word "of," to strike out "fifty" and insert "one hundred;" so as to read:

That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of James Shields, late a brigadier-general of the United States Volunteers, at the rate of \$100 per month; said pension to be in lieu of that which he now receives.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments of the House.

The amendments were concurred in.

#### MUSICIANS IN ARMY AND NAVY.

The next bill on the Calendar was the bill (S. No. 1385) to define the duties of musicians of the Army and Navy of the United States.

Mr. MORRILL. That has not been reported by any committee, I believe.

Mr. KERNAN. I hope the Senator does not object to the bill.

The PRESIDENT *pro tempore*. There is an adverse report in the case.

Mr. BURNSIDE. It is adversely reported by the Committee on Military Affairs.

Mr. KERNAN. I think the minority of the committee can satisfy the Senate that this bill ought to pass. There is no reason for musicians of the Army and Navy under pay playing for trifling sums to take bread out of the mouths of other people. There is great complaint in my State about it, particularly among the Germans.

Mr. SARGENT. I embrace the opportunity of the pending of this bill to call attention to the fact that the memorial at the bottom of page 16 relates to the bill which is on the Calendar at the top of page 17. The memorial should not go on the Calendar by itself. It is

simply there because it has relation to a bill on the Calendar. I mention this in connection with what I said this morning.

Mr. BURNSIDE. The bill to define the duties of musicians of the Army and Navy of the United States was placed upon the Calendar by unanimous consent. The report was upon the memorial—an adverse report.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill?

Mr. MAXEY. I object.

Mr. KERNAN. If the Senator from Texas objects, in justice to those who sent this matter here I move that all prior orders be laid aside and that this bill be taken up and acted on. That is all I want—action.

The PRESIDENT *pro tempore*. The Senator from New York moves that all prior orders be postponed.

Mr. MAXEY. I object because—and it is due to the Committee on Military Affairs that the objection should be noted—the committee reported this bill adversely, and they had reasons for doing it, and whenever the proper time comes to give those reasons, I propose to do so.

Mr. KERNAN. Well, sir, I move to take it up that they may give those reasons now and let the Senate judge between these musicians and these Army men who are drawing pay from the Treasury and playing for a supper. I move to take up the bill. The Senate will decide the question.

Mr. BURNSIDE. This petition was before the committee and was reported upon adversely; but there was a pressure in the Senate and I stated that I was favorable to the bill, and I drew the bill and presented it, and the understanding was that it should be placed on the Calendar. There is no bad faith toward the committee in urging the bill. I believe, myself, that Army musicians should be deprived of the right to play for private parties, except by permission of the Secretary of War. I think it just that it should be so; and there is a proviso put in the bill providing distinctly that they can play on all public occasions when they get permission from the Secretary of War; but where they have not that permission, they ought not to have the right to compete with musicians outside the Army.

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

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which provides that hereafter it shall not be lawful for musicians of the Army or Navy of the United States to act as musicians for any private party or parties, or for any public parade except with their proper commands. It is provided, however, that the Secretary of War or the Secretary of the Navy may, in their discretion, give the musicians of their respective Departments permits to play at public parades and celebrations.

Mr. MAXEY. The view taken by the Committee on Military Affairs about this bill was that the musicians when not employed with their commands, when not on duty, acting with the consent of their commanding officer, have the same right to use that time for their own use and benefit that any Senator here has when he goes home to practice law, not being here at the time engaged in the business of the Senate. And there is just as much reason why we should provide that no lawyer should practice his profession when not engaged in senatorial duties; that no physician should practice his; and that no other business man should attend to his business, as to say that these musicians should not be permitted to play for those who see proper to employ them when they are not engaged in the service of the United States and having the authority of their commanding officer to play for those who see proper to employ them. There is no reason for it.

It is a restriction upon the right of these men which is unjust in itself. The duties of the soldier are hard enough at best; and why can he not in that way eke out the little pay we give him when he is not employed by the proper officer in the Army or in the Navy? It is but just and right that they should do it precisely as we all eke out what we get here by practicing our professions when we are not engaged in the Senate of the United States. It is in my opinion an unwarrantable intrusion upon the rights of these men when they are not engaged in public duty.

Mr. BURNSIDE. If the proposition of the Senator from Texas is a sound one, I would ask him if officers of the Army who happen to have a knowledge of the law would have a right to practice law in the courts in their neighborhood? I am quite sure he would say they ought not. These musicians in the Army have fair pay, have their clothing and their rations furnished to them; they are clear beyond any possibility of want; while musicians outside of the Army are very frequently out of employment, and are apt to be in great want? To allow these men who are provided by the Government with pay, clothes, and rations, to come in competition with musicians outside of the Government employment is an unfair thing. Besides, I think it subversive of discipline.

Mr. MAXEY. Allow me to say to the Senator from New Jersey that the character of the reasoning which he has engaged in would show that the lawyers at home who do not draw any pay from the Government would have a right to insist that we should not practice law because we get \$5,000 a year as Senators and that it is an unwarrantable interference with them. If the reasoning is good in one case let it apply all the way through.

Mr. BUTLER. Will my friend from Rhode Island permit me one moment? I rise to inquire whether this bill has ever been before the Committee on Military Affairs or not?

Mr. KERNAN. It is before the Senate on the vote of the Senate, and I think that will answer.

Mr. BURNSIDE. It is on the Calendar by unanimous consent.

The PRESIDENT *pro tempore*. The Chair is told the bill has been reported by the committee.

Mr. BUTLER. My information is that this bill has not been before the Committee on Military Affairs; a memorial has been.

The PRESIDENT *pro tempore*. The Chair understands a memorial was reported to the Committee on Military Affairs, and that memorial was reported back with a bill.

Mr. BUTLER. It was reported adversely.

Mr. KERNAN. But that does not conclude it.

The PRESIDENT *pro tempore*. The fact that the report was adverse has been stated.

Mr. ALLISON. Will the Senator from Rhode Island allow me to make a suggestion?

The PRESIDENT *pro tempore*. The Chair is corrected. Upon reference to the record he finds that a memorial was referred to the Committee on Military Affairs and was reported adversely, and the Senator from Rhode Island [Mr. BURNSIDE] then introduced this bill.

Mr. BUTLER. May I inquire how the bill could be reported with a memorial adversely? I should really like to understand that.

The PRESIDENT *pro tempore*. The Chair stated that the memorial was reported on adversely and the Senator from Rhode Island introduced the bill. It is not reported by the committee, but introduced by him.

Mr. ALLISON. I want to suggest to the Senator from Rhode Island that this matter seems to relate to the organization of the Army and its effectiveness; and we have just raised a joint committee to look into all questions relating to Army organization. I think this had better go over to let that joint committee consider it.

Mr. KERNAN. Will the Senator from Rhode Island yield to me a moment?

Mr. ALLISON. I would like the Senator from Rhode Island to answer me.

Mr. BURNSIDE. I will answer the Senator from Iowa. This is a bill on which my opinion has been formed for a great many years. I have had very decided opinions on the subject and they would not be changed by anything done by any military committee or commission. I have been in favor of this for a long time. I think the present practice is subversive to discipline, and it is not fair to musicians outside. The Army musicians receive their pay, clothing, food, and allowances from the Government of the United States, and they need not go into the Army unless they choose to do so.

Mr. ALLISON. But the bill relates to the musicians of the Army. There are a great many frontier posts where musicians are not engaged all the time playing for the Army.

Mr. BURNSIDE. The Secretary of War can grant a permit in that case.

Mr. ALLISON. That is rather a difficult process to apply to the Secretary of War a thousand miles away.

Mr. KERNAN. Now, will the Senator bear with me a moment? A very large body of people, in the city of New York particularly, belonging to a musical organization furnishing music and somewhat benevolent in its organization for its members, find that the band at Governor's Island and other bands of the United States are employed for very slight pay, often merely for their supper, to play for private parties and compete with them. Now, my friend from Texas says there is no reason for preventing these men competing with these outside musicians. This is a very harmless and very good body of citizens, who furnish music and make their living by it. The Government furnishes its musicians the very instruments they play on; it gives them clothing and rations and pay; and it seems to me it is not reasonable that we should send them to play at private entertainments, competing with people who have to earn their bread and get neither instruments nor rations nor pay from the Government at least. I only desire to state their case. They feel very deeply about it. I do not think we should permit these musicians under pay of the Government to play, except on public occasions or when their officers permit them to do so, or the Secretary of War. I know that these people feel that it is a great grievance where the Army bands are stationed near a city. There is a great deal of feeling among people who have to earn their bread, and have hard work to earn it in cities, that we should send competing musicians, drawing their bread from the Treasury, drawing their rations from the Treasury, and carrying the instruments which the Government furnishes. I hold, out of respect to these people who think there may be fair play, that we shall not feed, clothe, and pay, and furnish instruments to men to go and play for nothing, thus taking the bread out of the mouths of private musicians.

I ask the Senate, without further delay, to vote upon this bill.

Mr. BUTLER. Would not the same rule apply to Congress?

Mr. KERNAN. My friend from South Carolina asks why we should not prohibit lawyers from practicing law. If they neglect their duty they are prohibited by their consciences, and we do not furnish them with rations and law-books. Senators will remember the feeling among workmen at employing convicts who are supported at pub-

lic expense. I do not think we should turn loose this class of people to compete with deserving citizens, who in these times have hard work to earn their bread, using their own instruments and feeding themselves and clothing themselves.

Mr. BUTLER. I have but one word to say in reply to my friend from New York. He says the Government supplies the musicians of the Army with their instruments. That is true to a certain extent, but those musicians have a great many instruments which are not supplied by the Government at all. It would be, in my honest judgment, a very great hardship upon the musicians of the Army to deprive them of the opportunity to make this small stipend in addition to their pay.

My friend the Senator from New York says that in Brooklyn and in the city of New York there are a great many bands which by the operation of the law allowing the musicians of the Army to play outside are deprived of many opportunities to make money; but my friend will remember that there are a great many other places in this country besides Brooklyn and New York City. I undertake to say that in my part of the country, and I have no doubt in very many portions of the West, the only opportunity to secure music is from the bands of the Army. I cannot see why it is that the musicians of the Army should be deprived of the opportunity to make something beyond their small pay as common soldiers and musicians. I do hope that the motion suggested by my friend from Iowa will prevail and that the whole question will be referred to the joint commission for the reorganization of the Army. If in their judgment and wisdom it should be thought advisable to adopt this bill I should certainly acquiesce; but it seems to me, inasmuch as we have agreed to raise a joint commission, we should refer this as all other questions appertaining to the Army to them.

Mr. MORRILL. I offer the following amendment, to come in at the end of the bill:

And the chief officer at any military post or of any naval vessel may, in their discretion, give permits in like cases.

It will be seen of course that if the bill should pass as presented, it will be necessary to obtain permission from Washington. How could that be done in California or at the more remote posts?

Mr. KERNAN. I think there is no objection to the amendment of the Senator from Vermont. If the chief officer permits the bands to play outside I shall not object.

Mr. MAXEY. We accept the amendment on our side.

Mr. MORRILL. I desire to say another word in relation to the matter. It is well known that many of these musicians are skilled in their profession. They could not be retained in the employment of the Government unless they could receive some outside compensation. I have known several to leave the service of the Government because the pay was small, and they could obtain higher rewards by leaving the service than by remaining. I think it is important that these bands should stand high in their profession. In order that we may secure the services of such men, it seems to me exceedingly important that they should be allowed to increase their compensation, as they can do so without any disadvantage or detriment to the service, by an occasional employment away. I therefore propose the amendment to allow the officers in command of the military posts or of any naval vessel to give the same permission as the Secretary of War or the Secretary of the Navy may give, as I doubt not they would in all cases.

Mr. KERNAN. I desire to inquire of the Senator from Rhode Island whether the musicians are required to get the permit now. If so, I hardly want to accept that amendment.

Mr. BURNSIDE. In point of fact, the military bands should not play outside except by permission of the Secretary of War. The Secretary of War can issue under the bill a general order that bands in California, that bands in Texas, or bands in any part of the country, if he likes, or at any post, may hire themselves out. Upon becoming acquainted with the general necessity of any neighborhood the Secretary of War may give a permit to the band in that locality to play outside. But if you provide that such a permit may be given by the commanding officer, one commanding officer may decide that the band can play and in a month he might be relieved by another officer who would say that the band could not play, and we should have no uniformity of action at all. It had better be left as it is now than to adopt the amendment of the Senator from Vermont. The whole thing should be left to the Secretary of War, in point of fact, so that these bands cannot play without his permission.

Mr. SARGENT. The amendment of the Senator from Vermont ought not to read "any naval vessel," because the bands are on board vessels and at the navy-yards. It ought to read "at any navy-yard," instead of the words "of any naval vessel."

Mr. MORRILL. I will add "navy-yard;" I think it ought to be both.

Mr. SARGENT. I ask the Senator to accept a modification, to strike out "naval vessel" and insert "navy-yard."

Mr. MORRILL. I think it should be both, because frequently there are more or less musicians on board vessels.

Mr. SARGENT. But they do not play on shore.

Mr. MORRILL. I accept the amendment, and will say "of any navy-yard or vessel."

Mr. ALLISON. I ask the Senator from California, as the chairman of the Naval Committee, if he thinks this bill ought to pass.

Mr. SARGENT. I certainly do not; but if the bill must pass I should like to have it in such a shape that it will not cripple the service more than is absolutely necessary. I think it ought not to pass on its own features.

This bill provides that "it shall not be lawful," it makes it an offense "for musicians of the Army or Navy of the United States to act as musicians for any private party or parties, or for any public parade except with their proper commands." It makes it a misdemeanor to do so, and there ought to be a sanction to the bill imposing a penalty with fine and imprisonment or something of that kind. Suppose these musicians do unlawfully play at a private party, what are we to do with them; how are we to punish them?

Mr. ALLISON. Try them under section 29 of the Army appropriation bill. [Laughter.]

Mr. SARGENT. Yes, under the section which we passed upon the Army appropriation bill, the twenty-ninth section, which provides that it shall be a misdemeanor punished with two years' imprisonment and a fine of \$1,000, or something of that kind. The bill itself I think is entirely absurd for another reason. It would prevent the playing by the Marine Band at the White House on the 1st day of January. That is not a celebration. To be sure, it is a sort of an observance, but it is not a celebration of the day particularly. It would prevent their playing on the occasion of a private reception or any other day at the White House.

Mr. WITHERS. Or giving concerts on the public grounds.

Mr. SARGENT. As I was going on to say, it would prevent—

Mr. BURNSIDE. I would say to the Senator from California—

The PRESIDENT *pro tempore*. The Chair reminds Senators to address the Chair. The Chair cannot preserve order unless Senators will observe the rules of the Senate. Does the Senator from California yield to the Senator from Rhode Island?

Mr. SARGENT. I want to make one further remark and then I shall yield. It would prevent the bands, as suggested by the Senator from Virginia, and that had occurred to me, from playing at the White House on the parade ground or playing here at the Capitol, because they do not play on any public celebration or anything of that kind. It would prevent their playing at a military funeral perhaps, unless that might be considered as a "public parade," which would be rather a harsh phrase to apply to a funeral. But even admitting that they might play at a public parade, they could not play on the other occasions which I have mentioned. It would be a misdemeanor for them to do it. Now, it is proposed to relieve this by providing that—

The Secretary of War or the Secretary of the Navy may, in their discretion, give the musicians of their respective Departments permits to play at public parades and celebrations.

When the Marine Band plays out here in front of the Capitol it is not a public parade or celebration; when they play in the grounds of the White House it is not a public parade or reception; so when they play at an evening reception at the White House, adding a very satisfactory feature to such a reception, giving a little *éclat* to it. Certainly, if it is unlawful to play at the house of a Cabinet officer or of a private citizen, it must be unlawful to play at the house of the President of the United States for his private parties, for that is what they are. So it seems to me that the whole bill is badly conceived; and what is the object? It is to prevent these persons from coming in competition with private bands.

The argument which is advanced is just as forcible that members of Congress who receive large pay from the Treasury shall not practice their professions as lawyers or as doctors.

The mere fact that instruments are furnished to a band and that there is no library furnished to a lawyer does not figure in the case, for a lawyer who is worthy the name carries the law in his head, as does a doctor carry a knowledge of medicine in his head. Furthermore there is an immense law library furnished by the Congress of the United States for every lawyer in the Capitol or out of it who sees fit to use it to practice in the courts of the District or in the courts of the United States. Therefore the two utensils of trade are furnished by the Government free. If there is competition in one case there is in the other cases. On the score of economy, if you are going to put these men in a box and say when they are not needed for the public service they shall not employ their time for their own benefit, then you have got to pay them much larger salaries than you do now. Skilled musicians cannot afford to be in these bands at the price which the Government gives. You could not keep up your Marine Band to its present state of efficiency under such a rule. How absurd it is to say that the band at West Point shall not go outside of the grounds in order to play at some neighboring party. What harm is it to anybody? There may be no band near unless one is brought from New York City or some large neighboring village at a large expense, which the persons wishing to employ the music may not be able to afford. These men go out for some little pittance; they may perhaps go out for the pleasure of the thing and furnish the music for the people sparsely settled around the locality at West Point; and the same is true of Annapolis.

It seems to me that the bill is hardly worth the length of time which is given to its discussion. It constitutes a precedent which will be demoralizing for these bands. It is an injustice to them. It makes a discrimination which we ought to carry a great deal further if we are going to enforce it against these musicians.

Mr. WITHERS. I wish to offer an amendment in the form of a second section to the proposed bill :

That hereafter Senators and Representatives in Congress shall not practice law or medicine without the consent of the Attorney-General of the United States or the Surgeon-General of the Army.

[Laughter.]

Mr. BURNSIDE. I shall accept that amendment, and I will say that it would be a capital provision to pass.

Mr. INGALLS. This, Mr. President, is certainly a colossal subject, and one that none but the most gigantic intellects are qualified to cope with. I suggest to the Senator from Rhode Island, the distinguished author of this bill, who I believe reported it without the sanction of the committee, that in order to make it complete he should provide that any citizen of the United States not in the military service who dares to listen to the music of a military band without permission of the commander, shall be tried by drum-head court-martial and shot to death. [Laughter.]

The subject to me seems a little too frivolous to treat even with seriousness. If I understand military discipline and military law, the surgeon of a post is not forbidden to practice medicine outside when it does not interfere with the duty he owes to the soldiers of the garrison. I do not understand that the chaplain at a post, if called upon to officiate at a private funeral, is forbidden to do so, and made punishable by the laws and regulations of war; or, as the Senator from Illinois [Mr. DAVIS] suggests, he is not forbidden to marry persons who are not in the military service. [Laughter.] If you want to make this thing logical, enforce the provisions of this bill against all who are in the military service. If a surgeon obeying the call of humanity goes outside of the limits of the garrison to pay medical attention to a citizen who is sick, shoot him; or if a chaplain presumes to officiate by way of marrying or at a funeral, or by delivering a sermon to the inhabitants who may be gathered around some remote and rural post, shoot him. [Laughter.] I would suggest further, inasmuch as the object is to seclude and sequester the military officers and department of this Government from all public gaze and from all opportunities of public exhibition, that military parades, when the soldiers are dressed in their gaudy trappings and uniform, should also be conducted inside some inclosure where no person could inspect them. [Laughter.]

What harm is done by allowing the military bands to officiate at private ceremonies, at public parties, and at celebrations when they are not otherwise engaged? I understand that these persons for the most part have soldiers' pay and soldiers' rations. They contribute very largely to the comfort, to the convenience, and pleasure of the people. Who is injured by the exhibitions that are given here by the Marine Band? How does it interfere with their usefulness or with the discipline of the Army? Why should they be punished for a misdemeanor under the section which has been reported to the recent Army appropriation bill? Yet if this is to become a law, as the Senator from Rhode Island suggests, there must be some penal sanction attached, and a violation of the provisions will subject these people to punishment for a misdemeanor or else a trial by court-martial.

I suggest, Mr. President, I believe I will move, if it shall meet with the approbation of the Senate, that this very important subject be now referred to the joint commission that has been created for the purpose of taking into consideration the reorganization of the Army.

Mr. BURNSIDE. Mr. President, I take it that all subjects brought before the Senate on behalf of a respectable body of citizens of the United States are entitled to respectful consideration. Some Senators have a greater power of ridicule than others. Some Senators have a way of handling subjects that are presented to them in that mode. I myself do not possess that power; I do not aspire to it; if I did I could not reach it. When any subject is presented to me under a petition of a respectable body of citizens, I endeavor to give that subject my direct attention. A respectable body of citizens of the city of New York presented a respectful petition which was referred to the Military Committee. There was a disagreement in that committee. A majority of the committee decided to report adversely upon that petition. I was in the minority. One of the most respectable Senators in this body, interested in the welfare of his constituents, requested me to make a minority report. I did make a minority report. I drew a bill and by the unanimous consent of this Senate I introduced that bill and it was placed upon the Calendar.

Now, neither the Senator from Kansas nor any other Senator, no matter what his power of ridicule may be, has any right whatever to endeavor to drive me from a strong position. No matter how small the subject is, every Senator is entitled to respectful consideration. The Senator's power of ridicule may be greater than mine; but it has no effect upon me whatever. I shall do my duty without reference to him or to any other Senator on this floor. I paid proper respect to this petition. If I had had the least idea that it was going to occupy so much valuable time at the close of the session I should never have moved it; I should have said to the Senator from New York that it would be better not to bring this subject up because some Senator probably would be disposed to ridicule it. I certainly do not want to take up the time of the Senate by any such thing as that. I say it is unbecoming a Senator, I do not care who he is, to use the time of the Senate in any such way.

If Senators think this measure is not worthy of consideration, let some one get up and meet the question fairly and squarely and move

for its indefinite postponement. There is no such thing as ridiculing a measure of this kind. There is a body of musicians in the city of New York who are interested in the measure. Their rights are as good as the rights of the Senator from Kansas and of the Senator from Virginia. I will state to the Senator from Virginia very plainly that in my estimation it would be a wise provision if members of Congress were made to attend to the public business and look after the interests of the people, giving their whole time and attention to legislative matters. We should get along better. Nothing on the face of this earth, in my opinion, is so demoralizing as for members of Congress to be interested in outside things. I do not care whether they are lawyers, doctors, merchants, farmers, or anything else, the more attention they can give to the public interests the better off this country is. I say to the Senator from Kansas or to any other Senator that when he wants to drive me from any position I have taken he must not attempt to do it by ridicule.

Mr. INGALLS. The soul of the Senator from Rhode Island is evidently moved not this evening by the "concord of sweet sounds," and I regret exceedingly that any innocent remarks of mine should have harrowed him up to the painful extent that has been witnessed on this occasion. Nothing was farther from my purpose than to make any remarks that could by any possibility have been construed into disrespect to the very important measure that has been proposed by the distinguished Senator from Rhode Island. I trust that he will moderate his impetuosity and let his judgment control his feelings. The Senator from Rhode Island states that he acts in the interest of a very large and influential body of people in New York City.

Mr. BURNSIDE. I beg pardon; I said no such thing, Mr. President.

Mr. INGALLS. I understood the Senator to say that this subject was called to his attention by the petition of a very large and respectable body of people in New York City who obtained their living by the practice of music. My understanding of gentlemen in that profession is that they are very generally people who have other settled occupations. I know that in my own country, the Germans particularly, who are very much given to musical pursuits, have daily avocations and practice music simply as a recreation. I presume that is so elsewhere. I have no doubt it is so in New York.

But I want to call the attention of the Senator from Rhode Island to the fact that in the remote West, in the country where I live and in posts still more remote, on the frontier, there are a great many garrisons where there are military bands, and where the people have no other method of recreation. It certainly would be a great injustice to them if they desired to attend celebrations, grange festivals, or neighborhood rejoicings, to say that that privilege should be denied them. At Fort Leavenworth, one of the most beautiful posts in the West, there has always been stationed a military band distinguished for its excellence. They have uniformly been invited to attend the commencements of the State university in my State. They have always done so willingly. They have never asked anything but the payment of their expenses. They have contributed very largely to the enjoyment of the occasion. Sometimes of an evening they have been tendered complimentary receptions, and the citizens have been pleased to attend for a small compensation by way of gratuity to them for their services. What is the objection to continuing that practice? Why should it be necessary when these musicians are not otherwise employed to prevent them from contributing in this simple and innocent way to the rational enjoyment of the people?

Mr. President, I renew my motion that this subject be committed to the joint commission which has been created for the purpose of considering the reorganization of the Army.

Mr. EATON. If my friend from Kansas will withdraw that motion I should like to gratify my friend from Rhode Island and move the indefinite postponement of the bill.

Mr. INGALLS. I accept that substitute for my motion.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Connecticut that the bill be indefinitely postponed. The motion was agreed to.

#### TAX SALES IN THE DISTRICT.

The next bill on the Calendar was the bill (S. No. 1344) relating to tax sales and taxes in the District of Columbia.

Mr. McMILLAN. Has not that bill been disposed of?

The PRESIDENT *pro tempore*. It is another bill.

Mr. ALLISON. There seems to be no end to these District of Columbia tax bills.

The bill was considered as in Committee of the Whole. It makes it the duty of the collector of taxes for the District of Columbia to prepare and keep in his office, for public inspection, a list of lots and squares, arranged in numerical order, of all real estate in the city of Washington heretofore sold, or which may hereafter be sold, for the non-payment of any general or special tax or assessment levied or assessed upon the same, the list to show the date of sale and for what taxes sold; in whose name assessed at the time of sale; the amount for which the same was sold; when and to whom conveyed if deeded, or, if redeemed from said sale, the date of redemption. It is to be the duty of the collector, whenever called upon, to furnish, in addition to the regular tax bills, a certified statement, over his hand and official seal, of all taxes and assessments, general and special, that may be due and unpaid at the time of making the certificate, and which may in any manner be a lien upon any real estate located in the District.

Mr. McMILLAN. Does that increase the cost upon a redemption from tax sale?

Mr. HARRIS. Not at all. The only money there is in it is that the party who desires the information and certificate pays fifty cents.

The PRESIDENT *pro tempore*. The Committee on the District of Columbia report amendments, which will be read.

The amendments were, in line 23, after the word "recovery," to insert "from any subsequent purchaser;" and in line 25, after the word "certificate," to insert:

And said lien shall be discharged as to such subsequent purchaser, but shall not affect the liability of the person who owned the property at the time such tax was assessed to pay the same.

So as to read:

And said certificate, when furnished as aforesaid, shall be a bar to the collection and recovery, from any subsequent purchaser, of any tax or assessment omitted from and which may be a lien upon the real estate mentioned in said certificate, and said lien shall be discharged as to such subsequent purchaser, but shall not affect the liability of the person who owned the property at the time such tax was assessed to pay the same.

The amendments were agreed to.

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

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

#### TERMS OF COURTS.

Mr. DAVIS, of Illinois. I withdraw the motion made by me to reconsider the votes by which two bills passed yesterday—the bill (H. R. No. 431) to provide for the holding of terms of the district and circuit courts of the United States at Fort Wayne, Indiana, and the bill (H. R. No. 4024) to provide for the holding of a term of the district court of the United States at the city of Charlotte, North Carolina.

The PRESIDENT *pro tempore*. If there be no objection permission will be given. The motions to reconsider are withdrawn.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the joint resolution (S. R. No. 39) authorizing the Secretary of War to turn over to the governor of Alabama such tents, poles, and pins as he may require for the use of the volunteers of the State at their summer encampment.

The message also announced that the House had passed a resolution extending the time for the final adjournment of the second session of the Forty-fifth Congress until Tuesday, the 18th instant, at four o'clock p. m.

The message also announced that the House further insisted on its disagreement to the amendments of the Senate to the bill (H. R. No. 4104) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes, agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. J. D. C. ATKINS of Tennessee, Mr. M. J. DURHAM of Kentucky, and Mr. CHARLES FOSTER of Ohio managers at the further conference on the part of the House.

#### ENROLLED BILLS SIGNED.

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

- A bill (S. No. 27) for the relief of Amos B. Ferguson;
- A bill (S. No. 76) granting a pension to Mary Ann McFarland;
- A bill (S. No. 221) granting a pension to Mary Kirby Smith Eaton during her widowhood;
- A bill (S. No. 334) for the relief of William Bowlin, late of Company L, Second Arkansas Cavalry;
- A bill (S. No. 394) to place the name of Daniel H. Kelly upon the muster-roll of Company F, Second Tennessee Infantry;
- A bill (S. No. 535) granting an increase of pension to Theodore Gardner;
- A bill (S. No. 547) granting a pension to Caroline M. Egbert;
- A bill (S. No. 594) for the relief of William W. Spiers, late assistant surgeon United States Army;
- A bill (S. No. 686) granting a pension to Mary Emma Baptist and Daisy Baptist, minor child;
- A bill (S. No. 704) granting a pension to Grace Aikins;
- A bill (S. No. 712) granting a pension to William Loudon;
- A bill (S. No. 744) granting a pension to Sarah McCooey;
- A bill (S. No. 871) granting a pension to William Emerson;
- A bill (S. No. 902) for the relief of Carl Jussen;
- A bill (S. No. 1029) for the relief of John M. Lord;
- A bill (S. No. 1068) for the relief of T. B. Kelly;
- A bill (S. No. 1165) granting a pension to Mary McAdams;
- A bill (S. No. 1206) granting a pension to Emily Hughes, alias Burch;
- A bill (S. No. 1275) granting a pension to John Charles Black;
- A bill (S. No. 1332) granting a pension to John G. Merritt;
- A bill (H. R. No. 82) for the relief of Alexander Anderson, late first lieutenant Fourteenth New York Volunteer Cavalry;
- A bill (H. R. No. 234) for the relief of John F. Andrews, postmaster at Washington, Georgia;
- A bill (H. R. No. 720) for the relief of John Eaton;

A bill (H. R. No. 1966) for the relief of J. H. Duncan, postmaster at Elbenton, Georgia;

A bill (H. R. No. 2396) for the relief of John E. Williamson;

A bill (H. R. No. 3565) granting a pension to Dr. P. F. Reuss, late surgeon Seventh New York Volunteers;

A bill (H. R. No. 3980) to confirm the title to the northeast quarter of the northwest quarter of section 7, township 81 north, range 4 east of the fifth principal meridian, Clinton County, Iowa;

A bill (H. R. No. 4976) to increase the pension of certain pensioned soldiers and sailors who have lost both their hands or both their feet or the sight of both eyes in the service of the country; and

A joint resolution (H. R. No. 169) authorizing the payment of the accounts of Lieutenant James T. Leavy, an insane officer.

#### FINAL ADJOURNMENT.

Mr. WINDOM. I ask for the present consideration of the House resolution relating to the final adjournment.

The PRESIDENT *pro tempore*. The Chair lays before the Senate the following resolution, received from the House of Representatives:

*Resolved, (the Senate concurring.)* That the time fixed by the two Houses of Congress for the final adjournment of the second session of the Forty-fifth Congress is hereby extended to four o'clock p. m. on Tuesday the 18th of June, current; and at that time the President of the Senate and Speaker of the House of Representatives shall adjourn their respective Houses without day.

Mr. WINDOM. I move that the Senate concur—

Mr. EATON. I hope my friend will not move now that the Senate concur. Let us wait.

Mr. WINDOM. We have to do it or the two Houses will stand adjourned at noon on Monday. I should like to take the advice of my friend from Connecticut, but unless we concur in this resolution the two Houses will find themselves adjourned, I take it, at noon on Monday. I desire to say in connection with the motion that further investigations of the Committee on Appropriations into the intricacies of the sundry civil bill do not induce the subcommittee to change their opinion in the least with reference to the proper time for adjournment. We do not believe it possible to get through decently and in order before the time named in the Senate resolution; but four o'clock on Tuesday is a good deal better than twelve o'clock on Monday, and therefore we accept this proposition for what it is worth. I desire to say on behalf of the subcommittee now examining the sundry civil bill that they are unanimously of the opinion that it will be well-nigh impossible to conclude the business at that time, but we recommend the adoption of the resolution and will work as hard as possible and try our best to get through. If we cannot do it, we shall have to ask another extension; and I make these remarks now that the motion may be understood when the time comes, if we are unable to complete the bill.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Minnesota to concur in the resolution of the House.

The motion was agreed to.

#### DIRECT-TAX SALES IN ARKANSAS.

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

The bill (S. No. 1106) to reimburse purchasers at direct-tax sales in Arkansas declared illegal by United States courts in consequence of a defective board of commissioners was considered as in Committee of the Whole.

The bill was reported from the Committee on Finance with amendments.

The first amendment of the committee was, in line 10, after the word "appropriated," to strike out the words "the full amount of the purchase-money in all cases paid;" so as to read:

That in the State of Arkansas, where decisions have been rendered in certain suits by the United States courts declaring the board of direct-tax commissioners defective in its organization, thereby rendering all proceedings had or performed by said board null and void, the Secretary of the Treasury be authorized and directed, and he is hereby authorized and directed, to refund, out of any money remaining in the Treasury not otherwise appropriated, to the purchaser or purchasers, or to his or their legal representatives or assigns.

The amendment was agreed to.

The next amendment was to strike out all after the word "assigns," in the twelfth line, to the end of the bill, in the following words:

Together with interest at 6 per cent. per annum from the date of the decree of the court depriving the purchaser of his possession of the property, or from the time the party claiming ownership took the possession of the property from the purchasers at the tax sale, in cases where no decree or judgment was made; and in cases where the purchaser or purchasers, or his or their legal representatives or assigns, shall have been dispossessed or evicted from property purchased at tax sale, by a decree of a court of the United States, the Secretary shall pay to such parties a sum of money sufficient to pay, cancel, or satisfy all judgements, with the cost thereon, so rendered against them, together with such other necessary expenses as have been paid by them in defending their titles to the property so purchased at direct-tax sales.

And in lieu thereof to insert:

The purchase-money in each of said cases respectively paid: *Provided*, That the said purchaser, his legal representatives or assigns, shall, before securing said purchase-money, make, execute, and deliver to the party entitled thereto, a release of all claim, interest, or title in the premises so as aforesaid bought at tax sale.

Mr. KIRKWOOD. I should like to understand this a little better than I do.

Mr. MORRILL. I will simply state that the board of commissioners of Arkansas was found to be defective. In a suit tried before Mr. Justice Miller of the Supreme Court he so decided. Therefore all

these tax sales are invalid, and it is found necessary to restore the property. We have amended the bill by striking out the interest and providing that the parties shall give a release of their claims.

Mr. KIRKWOOD. If I understand this amendment, it requires the United States to pay the costs.

Mr. MORRILL. That is stricken out.

Mr. KIRKWOOD. Excuse me. I thought it was rather hard to pay the costs.

The amendment was agreed to.

Mr. MORRILL. I will add that this was fully considered by the Committee on Finance and agreed to unanimously.

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

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

#### ARKANSAS STATE DEBT.

The bill (S. No. 116) authorizing the Secretary of the Treasury to adjust and settle the debt due the United States by the State of Arkansas was considered as in Committee of the Whole.

The bill was reported from the Committee on Finance with an amendment, after the word "conditions," in line 8, to insert the words "at not less than 50 per cent. of the principal and accrued interest;" so as to make the bill read:

That the Secretary of the Treasury be, and he is hereby, authorized and empowered to enter into negotiations with such proper authorities of the State of Arkansas, with a view of compromising, adjusting, and settling such debt; and he is further authorized and empowered to compromise, adjust, and settle the same upon such terms and conditions, at not less than 50 per cent. of the principal and accrued interest, as he may deem just and right after having examined into all the facts in relation thereto.

Mr. MORRILL. I will merely state that there is a debt with accumulated interest amounting to about \$1,700,000. The State of Arkansas has not paid the interest for a great many years, but it has been paid by the United States. At the present time the creditors of Arkansas are making negotiations for a settlement of the general indebtedness of that State with some prospects of success. It is thought that the United States ought to come in with the other creditors, and if other creditors are willing to accept less than the face value of their claims the United States should show an equal willingness; although Arkansas is greatly improving, and if it were to tax its people as much as the people of Iowa or my own State they would be able to pay their interest and all their debts.

The amendment was agreed to.

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

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

The PRESIDENT *pro tempore*. The committee report to strike out the preamble. The question is on the amendment striking out the preamble.

The amendment was agreed to.

#### MARY FEARON AND JESSIE CROSSIN.

The bill (H. R. No. 2138) authorizing the Secretary of the Treasury to pay Mary Fearon and Jessie Crossin, executrices of Samuel P. Fearon, deceased, for certain registered United States bonds redeemed by the Government on forged assignments and power of attorney was considered as in Committee of the Whole.

Mr. KIRKWOOD. Is there a report in this case?

The PRESIDENT *pro tempore*. There is no report accompanying the bill.

Mr. MORRILL. This is a case where there is proved to have been a forgery.

Mr. COCKRELL. I should like exceedingly to hear the Senator, but there is so much confusion in the Chamber that we are unable to hear on this side.

Mr. MORRILL. I see now the Senator from Pennsylvania [Mr. WALLACE] who reported the bill is present, and I leave the explanation for him.

Mr. WALLACE. These bonds were the property of Samuel P. Fearon, a citizen of Philadelphia, at the time of his death. They were in his possession. It appears that they were registered bonds, and the power of attorney to transfer them was forged by the use of his name through the instrumentality of a former member of Congress from Philadelphia, and upon the forged power of attorney the registered bonds were transferred to other parties.

Mr. KIRKWOOD. How did they come into the hands of this person?

Mr. WALLACE. The bonds were registered bonds.

Mr. KIRKWOOD. Where were they? They were indorsed, were they not?

Mr. WALLACE. The bonds were not indorsed; they were regular registered bonds. The evidence of ownership of course was in the hands of the party holding them, but there seemed to be a power of attorney executed and forged by Mr. Creely, and upon that forged power of attorney he made the transfer at the office of the Register of the Treasury and the bonds were passed to other people.

Mr. COCKRELL. Will the Senator from Pennsylvania answer how this party came into possession of these bonds?

Mr. WALLACE. I ask the Secretary to read the report which was

made in the House by Mr. TUCKER, from the Committee of Ways and Means of the House, and which gives the facts.

The PRESIDENT *pro tempore*. The Secretary will read the report. The Secretary read the following report submitted by Mr. TUCKER, of Virginia, December 14, 1877:

The Committee of Ways and Means, to whom was referred House resolution 178, respectfully report:

Upon full examination of the evidence furnished to the committee, they are satisfied that the registered bonds named in the resolution belonged to the late Samuel P. Fearon, of Philadelphia; that, after his death in 1864 or 1865, letters testamentary were granted, on probate of his will, to Mary Fearon and Jessie Crossin, his executrices, October 10, 1865; that, under a supposed power of attorney from Mary Fearon and Jessie Crossin (said to have been signed and sealed in presence of William Wallace and J. R. Edmunds and acknowledged before Thomas Randall, an alderman and justice of the peace, as by a certificate, signed and officially sealed by him, appears) to a certain John V. Creely, of Philadelphia, formerly a member of Congress from said city, six registered bonds for \$500 each, numbered from 3424 to 3429, issued under the act approved February 25, 1863, and redeemable at pleasure after April 30, 1867, and payable May 1, 1882, were assigned July 5, 1871, by said Creely, attorney, to the Secretary of the Treasury, in trust for the United States; said assignment being executed in presence of George Eyster, assistant treasurer of the United States at Philadelphia; that the said power of attorney was forged, never having been signed, sealed, or acknowledged before said Randall, as he himself now testifies; that a certain other registered bond of the United States, numbered 2081, for \$1,000, issued under act of March 3, 1864, dated June 8, 1864, redeemable after February 28, 1874, and payable March 1, 1904, was assigned to Amanda Walliza, and a new certificate issued thereupon; the said assignment on the back of the certificate issued to Samuel P. Fearon, deceased, being signed with the names of Mary Fearon and Jessie Crossin, executrices, &c., August 27, 1869, in presence of Abraham Stewart, notary public, in the city of Philadelphia; and, lastly, that the said supposed power of attorney to Creely and the assignment on the certificate for \$1,000, No. 2081, were undoubted forgeries.

It is clear that unless some gross negligence on the part of the executrices stops their claim the Government is still a debtor to them for the said certificates, though payment has been made to others, because they were not legally authorized by the executrices to receive the same.

As these certificates have been on the books of the Treasury redeemed or assigned to others, it is deemed better to pay to the executrices the amount of the same, with interest, according to the terms of the contract and the laws regulating their payment.

The committee therefore report a bill in lieu of the joint resolution referred to them, which they recommend do pass.

The facts of this case justify the committee in presenting some further views and recommending further action.

It appears that the forgeries committed in this case were certified by a notary public in the case of the one-thousand-dollar certificate, and by an alderman and justice of the peace in the case of the power of attorney under which the six bonds were transferred.

No legislation has prescribed the form or mode of assignment and transfer of such certificates, nor the persons before whom to be acknowledged. The loss to which the Government is subjected suggests the possible need of legislation.

It is true the Secretary of the Treasury has on the back of these certificates prescribed a form and the parties before whom the acknowledgments thereof shall be made. These parties are a United States judge, district attorney, or clerk, or collector of customs, United States Treasurer or assistant, an American minister abroad, United States consul, or a notary public—the seals of the last two being required to be attached.

Though in the case of the six bonds aforesaid the assignment by the feigned attorney was acknowledged before the party designated on the back of the certificates, the forged power of attorney was acknowledged before an alderman or justice of the peace. It was a departure from the requirements prescribed to permit the assignment of these bonds by an attorney under a power not acknowledged before parties designated; and the assignments were therefore invalid according to the forms prescribed. These assignments were made to the Secretary, for the use of the United States, and conveyed no title; nor were they in form as prescribed by the Secretary himself.

But beyond this there are serious evils in the forms prescribed. The forgery in each case arose from the notary and alderman taking an acknowledgment, when they did not identify the parties making them. This leaves the door open to constant frauds upon the Government.

Your committee, upon inquiry, find that since this case has come to the knowledge of the Department other regulations have been made by the Secretary, which seem to guard sufficiently against the recurrence of such frauds; and, as others may suggest themselves, he is free to adopt them. The committee therefore think it is better to leave the regulation of assignments to the Secretary, without further legislation.

Your committee further report that the fraud and forgery committed by Creely were done through the negligence of the notary and the alderman. Whether their conduct makes them liable to any judicial action is a proper subject, at least, of inquiry. Whether any has been taken against them or Creely, whose guilt appears to be clear, your committee are not informed. It is said that Creely is supposed to be dead, but if so, his estate is responsible to the Government.

The bond, No. 2081, was assigned from hand to hand, and among the assignees in the course of its transfer appear the names of Sailer & Stevenson, who assigned to Jay Cooke & Co. Whether a loss accruing to the Government from a forged assignment, under which these several assignees claimed and obtained new certificates for the same stock from the Government, creates a liability to the Government, on their part, is a question of sufficient importance to suggest such legal inquiry by the officers of the Government as will lead to a remedy for the loss, if remedy there be.

Your committee therefore report another resolution, requesting the Secretary of the Treasury to institute any legal proceedings he may be advised is proper in the premises.

All which is respectfully submitted.

Mr. WALLACE. I have also the opinion of the Solicitor of the Treasury under date of the 20th of January, 1875, in which he says:

I have inspected a number of genuine signatures of these executrices, and have given the claim a careful examination. The result has been that I am satisfied that the names to the assignment, as well as the power of attorney, were forged, and that such pretended assignments do not affect the rights of executrices, who have the same legal claim against the United States as if such transaction had never taken place.

I have also another opinion of the Solicitor of the Treasury, furnished in 1876 to the committee, covering the same ground.

Mr. COCKRELL. The point I made was this, and I think it is touched upon in the report: how did the party guilty of these forgeries come into the possession of these registered bonds or certificates? Was it an act of negligence, was it a breach of trust, was it larceny, or what was it that gave him possession?

Mr. WALLACE. The explanation of it is in this fact: a Mr. Creely was a member of Congress from the city of Philadelphia, in whom Mr. Fearon had entire confidence. He had drawn the interest for Mr. Fearon and delivered it to him for a period of time before, and I suppose had the bonds in his possession by virtue of attending to the payment of interest at the Treasury. He took advantage of the custody of the bonds. My recollection is that the papers show that he then forged a power of attorney. It was an entire forgery.

Mr. COCKRELL. Is this member of Congress at large yet?  
Mr. WALLACE. I think he is dead. He left the country and is dead.

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

FRANCIS O. WYSE.

The bill (H. R. No. 830) for the relief of Francis O. Wyse was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs, with an amendment to strike out at the end of the bill the words "on and from the 25th day of July, 1863," and insert the following proviso:

*Provided, however,* That he shall receive no pay except from the time when this act becomes a law.

So as to make the bill read:

That the Secretary of War be, and he is hereby, authorized and directed to place on the list of retired officers of the United States Army the name of Francis O. Wyse as retired lieutenant-colonel of the Fourth Regiment of United States Artillery: *Provided, however,* That he shall receive no pay except from the time when this act becomes a law.

Mr. COCKRELL. I wish to change the amendment so as to be a little more explicit. I propose to make the proviso in lieu of the words stricken out read:

*Provided, however,* That he shall receive no pay, compensation, or allowance of any kind under the provisions of this act for the time intervening between the 25th day of July, 1863, and the date of the approval of this act.

The PRESIDENT *pro tempore*. The amendment will be so modified if there be no objection.

The amendment, as modified, was agreed to.

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

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

#### COLLECTION DISTRICTS IN MAINE.

Mr. SARGENT. I wish to submit a motion that the Calendar be printed for Monday morning.

The PRESIDENT *pro tempore*. That will be done without an order. The Senator from Kentucky has risen for some purpose.

Mr. MCCREERY. I intended to submit a motion to adjourn. ["Oh, no!"]

Mr. CHRISTIANCY. Let us finish what we can on the Calendar.

Mr. WITHERS and others. Let us finish the Calendar.

Mr. MCCREERY. Very well.

Mr. ANTHONY. I renew the motion that the Senate do now adjourn.

The Senate refused to adjourn.

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

The bill (H. R. No. 4987) to amend section 2517 of the Revised Statutes of the United States was read.

Mr. WITHERS. What does that mean; I should like to know?

Mr. KERNAN. This seems to be a section of the Revised Statutes which it is proposed to amend.

There shall be in the State of Maine fourteen collection districts, as follows.

And then it goes on to describe them.

Mr. WITHERS. What is the operation of the bill upon the section of the Revised Statutes?

Mr. KERNAN. I cannot tell.

Mr. CHRISTIANCY. Mr. President—

Mr. COCKRELL. As I understand, the bill creates two ports of entry in that district.

Mr. CHRISTIANCY. That is what I was about to call the attention of the Senate to in behalf of the Senator from New York [Mr. CONKLING] who usually sits nearest me and who is usually so very accurate in describing in his title, and requiring others to describe in the title of every bill the whole substance of the act. That seems here to have been omitted, and it becomes impossible to understand what is the meaning of this bill when read, which did not happen to be the case in those to which the Senator the other day objected, which were easily understood without that specification. Unless some one will take the trouble to read the section of the statutes which is referred to, the Senate will be in entire ignorance as to what this proposed amendment of it means.

Mr. BAYARD. Let the bill go over.

Mr. ANTHONY. I hope the form of the bill may be altered.

Mr. PADDOCK and others. Let the bill go over.

The PRESIDENT *pro tempore*. Objection is made, and the bill goes over.

#### NEW MEXICO MOUNTED VOLUNTEERS.

The bill (S. No. 837) for the relief of the officers and privates of the New Mexico Mounted Volunteers was considered as in Committee of the Whole. It gives authority to the Court of Claims to take juris-

dition of and adjudge the claims of officers and privates of the New Mexico Mounted Volunteers in the service of the United States during the rebellion, on account of losses of horses and equipments, although the same shall not be presented within six years from the time they accrued. But no such claim shall be considered unless the petition setting forth the same be filed within one year from the passage of the bill.

The PRESIDENT *pro tempore*. In the last line of the bill the word "filed" is printed "filled." That correction will be made.

Mr. ANTHONY. Is there a report accompanying the bill?

The PRESIDENT *pro tempore*. There is. Does the Senator from Rhode Island desire it to be read?

Mr. ANTHONY. Unless the Senator who has charge of the bill will explain it.

Mr. BUTLER. There is a report accompanying the bill. I ask that the Secretary read the report.

Mr. SPENCER. It can be explained more quickly.

Mr. WITHERS. Let the report be read.

The PRESIDENT *pro tempore*. The report will be read.

The Secretary read the following report, submitted by Mr. BUTLER on the 11th instant:

The Committee on Military Affairs, to whom was referred the bill (S. No. 837) for the relief of the officers and privates of New Mexico Mounted Volunteers, have had the same under consideration, and submit the following report:

This bill provides that the Court of Claims shall adjudicate the claims of officers and privates of the New Mexico Mounted Volunteers, on account of losses of horses and equipments, notwithstanding the expiration of the six years' limitation, provided the petitions therefor be presented within one year from the passage of the act.

These claims were disallowed by the Treasury Department on the technical objection that the Adjutant-General decided the horses and property had not become the property of the United States by purchase prior to their capture by the confederate forces.

The following is the letter of Hon. J. B. Hawley, Assistant Secretary of the Treasury, in reply to the communication of the chairman of your committee:

TREASURY DEPARTMENT,  
Washington, D. C., April 13, 1878.

SIR: I have the honor to acknowledge the receipt of your communication of the 29th ultimo, inclosing copy of Senate bill No. 837, for the relief of the officers and privates of the New Mexico Mounted Volunteers, and requesting information in relation to these claims.

In reply I have to state that there have been filed in the office of the Third Auditor three hundred and forty-five claims of this character for horses and equipments alleged to have been lost in the military service of the United States, but which were disallowed by the accounting officers of the Treasury on the report of the Adjutant-General United States Army "that the property at the time of loss was not considered in the military service of the United States."

There are also seventy-one claims of a similar character not yet acted upon by the Third Auditor.

Very respectfully,  
JOHN B. HAWLEY,  
Acting Secretary.

Hon. GEORGE E. SPENCER,  
Chairman Committee on Military Affairs, United States Senate.

These claimants allege that in February, 1862, they were in the military service of the United States as officers and privates of the New Mexico Mounted Volunteers, and that their horses and equipments had been examined and accepted and entered on the muster-rolls of their companies; that on the 8th February, the horses having become disabled from want of forage, General Canby caused the claimants to be dismounted and their horses to be sent to Socorro, where they were captured by the enemy on 24th February, 1862. The claimants applied to the Treasury for payment, and were refused it on the ground that their horses had not become the property of the United States by purchase. They now only ask that they be permitted to present their claims to the Court of Claims, the period within which their claims should have been filed in that court having expired.

By the act of March 3, 1849, it is provided "that any field, or staff, or other officer, mounted militiaman, volunteer, ranger, or cavalryman engaged in the military service of the United States since the 18th of June, 1812, or who shall hereafter be in said service, and has sustained or shall sustain damage without any fault or negligence on his part, while in said service, by the loss of a horse in battle, or

" \* \* \* in consequence of the United States failing to supply sufficient forage, or because the rider was dismounted and separated from his horse and ordered to do duty on foot at a station, detached from his horse, or when the officer in the immediate command ordered or shall order the horse turned out to graze in the woods, prairies, or commons because the United States failed or shall fail to provide sufficient forage, and the loss was or shall be consequent thereon, or for the loss of necessary equipage in consequence of the loss of his horse as aforesaid, shall be allowed and paid the value thereof, not to exceed \$200." (9 Stats. at Large, 414.)

In view of the circumstances and fact that the limitation of six years has expired through no fault of the claimants, their cases having in the mean time been held up for decision by the accounting officers of the Treasury, your committee are of opinion that it would be proper to allow them to go before the Court of Claims for judicial decision whether the objection taken by the Adjutant-General be legal and proper. They sustained the losses through no fault of theirs, and in obedience to the orders of General Canby, commanding. Your committee therefore recommend the passage of the bill.

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

PUBLIC LANDS IN UTAH TERRITORY.

The next bill on the Calendar was the bill (H. R. No. 775) for the restoration to market of certain lands in the Territory of Utah; which was read.

Mr. CHRISTIANCY. I object to the present consideration of that bill.

Mr. PADDOCK. I hope the Senator from Michigan will not object. I know he will not when he hears a statement I can make in regard to it.

Mr. CHRISTIANCY. I will hear the statement first, but I think I shall object.

Mr. PADDOCK. The act of May 5, 1864, referred to was an error; it was a superfluity. The land spoken of as a reservation was not a

reservation at all. These Indians were upon the surveyed lands of the United States. They were removed therefrom. This act was passed by a misconception on the part of the Delegate from that Territory at that time, and it complicated the title. The object of the bill is simply to restore the lands to the situation in which they were before and in which they always should have been. That is the statement of the case.

Mr. CHRISTIANCY. If that statement be a correct one, and I have no reason to dispute it—

Mr. PADDOCK. That is as I understand it.

Mr. CHRISTIANCY. If the Senator has looked into it and so understands it, I have no doubt that is the case; but that only shows that this bill should provide that these lands should not be sold without being first advertised and offered to the highest bidder.

Mr. DAVIS, of Illinois. At public sale.

Mr. CHRISTIANCY. At public sale. When lands have been kept out of market even by an error of a land officer the instructions of the Commissioner of the General Land Office in former years I know always required that course to be pursued.

Mr. DAVIS, of Illinois. They always do that now.

Mr. CHRISTIANCY. It should be done in all cases in order to give fair competition. The land may sell for a great deal more by being kept out of market for a considerable time by any error whatever. Therefore, according to the statement made by the Senator himself, this bill ought not to pass without a carefully-prepared amendment.

Mr. PADDOCK. The Delegate from that Territory in the other House made known the fact to the Committee on Public Lands in this body that those lands were, comparatively speaking, valueless; that is, that they did not rank any higher than the surrounding lands, of which there is a great abundance for sale at the minimum price by the Government or open to location under the homestead and pre-emption laws. They are simply in the way of settlement, they are not at all valuable lands.

Mr. CHRISTIANCY. I cannot take the information in any other mode than by some legally authorized appraiser that some portion at least of the lands thus kept out of the market for several years might not now sell higher than the Government price of \$1.25 per acre.

Mr. PADDOCK. I see the chairman of the Committee on Public Lands now in the Chamber. He reported the bill.

Mr. OGLESBY. The Senator from Michigan ought not to have any apprehension about this bill. The price of public lands at private entry is a dollar and a quarter an acre. These lands were valued years and years ago at \$1.35 an acre, and none of them were sold. None of them have been sold yet.

Mr. CHRISTIANCY. When was that?

Mr. OGLESBY. Oh, ten years ago. There is no earthly need of keeping the thing in this shape one minute longer. The Commissioner of the General Land Office fully explained the whole matter in a communication which was communicated to the House of Representatives and which is here in the RECORD. If the Senator will read it he will not have the slightest objection to the bill.

Mr. CHRISTIANCY. What the Senator has said confirms the position which I took. Here are lands that were appraised ten years ago at \$1.35 per acre, which was ten cents above the Government price then. They have been kept out of the market for ten years. Is it not probable that some of those lands would sell higher than the Government price of \$1.25 per acre?

Mr. OGLESBY. Not at all. They will not sell at all. Some of them are not worth ten cents an acre.

Mr. CHRISTIANCY. What was the meaning of that price?

Mr. OGLESBY. Because when they were occupied by the Indians and the Indians were removed to the Uinta reservation in Utah, it was supposed at that time that the country they abandoned would be very valuable, and that there would be great competition for those lands. They were brought into the market under act of Congress; I have forgotten the year; but they were appraised and put upon the market at \$1.35 per acre, and they do not sell. The only object of the bill is to put them on a footing with other public lands of the United States.

Mr. CHRISTIANCY. Have those lands been put upon the market at \$1.35 an acre and have they been liable to be entered in that way ever since?

Mr. OGLESBY. Certainly.

Mr. CHRISTIANCY. Then what is the object of this bill?

Mr. OGLESBY. The object of the bill is to make them liable to homestead settlement and to pre-emption as other public lands because at present they rest under that appraisement law.

Mr. ALLISON. Or they will not be sold at all.

Mr. OGLESBY. Not at all, except under that appraisement.

Mr. PADDOCK. I will remind the chairman of the committee of the fact that it was not a defined and established reservation. It was surveyed public land which had been occupied by an Indian tribe.

Mr. OGLESBY. It has been a great inconvenience to these people.

Mr. PADDOCK. The act was a blunder.

Mr. CHRISTIANCY. I shall withdraw any amendment or objection to this bill if the chairman of the Committee on Public Lands assures me that these lands have actually been in the market and subject to private entry at \$1.35 per acre for the last ten years.

Mr. OGLESBY. There was an appraisement made of \$1.35 an acre

and they have not been sold. The bill is simply to remove the appraisement act and let the land stand as other public lands. That is all there is in it.

Mr. CHRISTIANCY. That is a difference of only ten cents per acre. It is too small to make any objection on that ground and I withdraw any objection to the bill.

Mr. PADDOCK. I hope the Senator will withdraw his objection. Mr. CHRISTIANCY. I have already withdrawn it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It repeals so much of the act of Congress approved May 5, 1864, "to vacate and sell the present Indian reservation in Utah Territory, and to settle Indians of said Territory in the Uintah Valley," as directs the Secretary of the Interior to cause to be appraised and offer for sale upon sealed bids the reservations therein referred to, and authorizes the Secretary of the Interior to restore the same to the public domain for disposition as other public lands.

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

#### MONTANIANS IN NEZ PERCÉ WAR.

The next bill on the Calendar was the bill (S. No. 758) for the relief of citizens of Montana who served with the United States troops in the war with the Nez Percés, and for the relief of the heirs of such as were killed in such service.

Mr. SPENCER. The RECORD shows that last night, and I am so informed also, the House passed a bill similar to this matter. I should like to inquire where that bill is.

The PRESIDENT *pro tempore*. The bill has not yet come over, the Chair is advised.

Mr. SPENCER. I think we had better pass over this bill temporarily with the understanding that when the House bill comes we shall take that up.

The PRESIDENT *pro tempore*. The bill will be passed over.

Mr. SARGENT. Let it be the understanding that we shall consider the House bill.

Mr. SPENCER. That we shall consider the House bill instead of this.

Mr. SARGENT. Very well.

#### PETER G. MILLS.

The bill (H. R. No. 1164) for the relief of Peter G. Mills, his heirs and assigns, was considered as in Committee of the Whole. It confirms the entry by Peter G. Mills of the west half of the northwest quarter, and the northeast quarter of the northwest quarter of section 6, township 102, range 43, in the State of Minnesota.

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

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had agreed to the conference asked by the Senate touching the matters of difference between the two Houses on certain amendments of the Senate to the bill (H. R. No. 4286) to establish post-roads in the several States therein named, and had appointed Mr. J. G. CANNON of Illinois, Mr. W. R. MORRISON of Illinois, and Mr. A. M. WADDELL of North Carolina the conferees on the part of the House.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4867) making appropriations for the support of the Army for the fiscal year ending June 30, 1879, and for other purposes.

The message further announced that the House had passed a joint resolution (H. R. No. 195) in relation to committee clerks and other employés of the Senate and House of Representatives; in which it requested the concurrence of the Senate.

#### COMMITTEE-CLERKS.

Mr. SARGENT. I ask that the joint resolution which has just come from the House be taken up from the table and referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

The joint resolution (H. R. No. 195) in relation to committee-clerks and other employés of the Senate and House of Representatives was read twice by its title.

Mr. INGALLS. I should like to hear it read in full.

The PRESIDENT *pro tempore*. It will be reported at length.

The Secretary read the joint resolution.

Mr. SARGENT. I had an impression that the joint resolution made an appropriation for a month. I find it is only to the end of the current month, and that is usual, and if there is no objection I ask that it be put on its passage.

Mr. COCKRELL. Let it lie over.

Mr. SARGENT. Very well; lie over until Monday.

Mr. ALLISON. Let it lie on the table.

Mr. SARGENT. Very well.

The PRESIDENT *pro tempore*. The resolution will lie on the table.

#### M. P. JONES.

The bill (S. No. 150) for the relief of M. P. Jones was considered as in Committee of the Whole. It provides for the payment of \$25,000, to reimburse M. P. Jones for money deposited by him in the United

States depository at Portland, Oregon, to complete the United States surveys along the line of the Oregon central military wagon-road in Southeastern Oregon, and to pay the expenses of the clerical work in the office of the United States surveyor-general of Oregon.

Mr. GROVER. There is a letter from the surveyor-general of Oregon explaining this matter which I ask may be read, and also a report from the Commissioner of the General Land Office which I ask also may be read.

The PRESIDENT *pro tempore*. The bill will be laid aside until the papers are obtained.

Mr. WITHERS. I suggest that the Senator can state briefly the merits of the case and save time.

Mr. MITCHELL. I hope the objection will be withdrawn.

Mr. GROVER. The bill is not objected to.

Mr. COCKRELL. I want an explanation.

Mr. MITCHELL. My colleague can explain the matter.

Mr. GROVER. The Oregon Central Military Wagon Road Company received a grant of land from the United States to aid in the construction of their road from Eugene City, Oregon, to the southeast boundary of the State, a distance of about one hundred and eighty miles. This grant was three miles wide in alternate sections from the center of the road. This was a wild, unoccupied country at the time the construction of the road was begun, and there were no more public surveys whatever in that quarter of the State. Therefore the company, after building its road, could not receive title for its lands, because the United States public surveys had never been extended to that quarter of the State. They applied to the surveyor-general of Oregon to extend the public surveys in that direction. There was no public authority for it, no appropriations for it. He therefore, under public law authorizing this, proposed that if this company would deposit money enough to extend the public surveys under his contracts, made in the same manner that he made public contracts for surveys where appropriations had been made, he would survey the lands in this quarter. They did deposit under authority of public law \$25,000 to extend the public surveys through an unsurveyed quarter of the State of Oregon.

The public surveys were extended under contracts by the deputy surveyors of the United States, and this money of Mr. Jones was paid to the deputies of the United States. He therefore has been out of the use of the money.

The standard, parallel, and township lines of the public surveys of the United States, of a permanent benefit to the United States, were surveyed with Mr. Jones's private money. He therefore asks the money back only and no interest. These surveys have all been made.

Mr. CHRISTIANCY. Were these surveys made under the authority of the Secretary of the Interior?

Mr. GROVER. Under the authority of the Secretary of the Interior by a contract with the surveyor-general of Oregon made by sworn deputies.

Mr. CHRISTIANCY. And they are recognized as surveys of the United States now?

Mr. GROVER. Yes.

Mr. MITCHELL. And approved.

Mr. GROVER. They are a part of the permanent public surveys in the State.

Mr. MITCHELL. And extend over lands in half of which the company is not interested.

Mr. GROVER. Three-fourths of the lands surveyed are lands of the United States, not belonging to the company.

Mr. MITCHELL. It is all right.

Mr. OGLESBY. There ought not to be any objection to this bill.

Mr. COCKRELL. There has been none.

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

BUSHROD B. TAYLOR.

The next business on the Calendar was the joint resolution (H. R. No. 162) for the relief of Bushrod B. Taylor; which was considered as in Committee of the Whole.

The resolution was reported from the Committee on Naval Affairs with amendments, in line 7, after the word "opportunity," to strike out "from any cause whatever," and after the word "appear," in the same line, to strike out "in person;" so as to read:

That the Secretary of the Navy is hereby authorized to organize a board of three officers, not below the grade of rear-admiral, who shall examine into the case of Commander Bushrod B. Taylor, and such other officers of the Navy as did not have opportunity, from any cause whatever, to appear before the board created by virtue of the joint resolution of July 1, 1870, as may deem themselves unjustly passed over by the promotions made in conformity with the act of Congress approved July 25, 1866; and such officers shall have the right to appear in person and present to such board their cause of grievance. The board so organized shall report their conclusions to the Secretary of the Navy, who shall report the same to Congress.

The amendments were agreed to.

Mr. MORRILL. I move that the Senate adjourn.

Mr. SARGENT. Let us pass this resolution.

Mr. BAYARD. I beg that the Senator from Vermont will allow the next bill on the Calendar to come up. It is a House bill, a very small one.

Mr. MORRILL. There is hardly a quorum present.

Mr. SARGENT. Does the Senator object to this resolution?

Mr. MORRILL. I do not object to this.

Mr. LAMAR. Let us go on.

Mr. MORRILL. I withdraw the motion.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

The title was amended so as to read: "A joint resolution for the relief of Bushrod B. Taylor and other naval officers."

#### OSAGE CEDED LANDS.

Mr. INGALLS. Before the adjournment I wish the Senate would indulge me with the consideration of House bill No. 2153 that has been passed over, and is a matter of great personal importance to myself and to certain portions of my State.

Mr. McMILLAN. We can get through, I think, with the cases on the Calendar by proceeding now in order. There is a bill here in which I feel great interest and which is of great interest to the party concerned, a House bill, and I think it will not require any discussion. I am willing to let it be reached in its order on the Calendar. Let us go on with the Calendar.

Mr. INGALLS. House bill No. 2153 I think the Senate will consider.

Mr. McMILLAN. I have a House bill No. 1371, which is a case very important. I think we had better go on with the Calendar.

Mr. INGALLS. This is a bill that has been passed by the House, acted upon by the Senate, and reported favorably by the Senate committee.

Mr. McMILLAN. I have also a bill of that character.

Mr. INGALLS. We shall be glad to act upon that subsequently.

Mr. COCKRELL. What is the bill the Senator from Kansas desires to call up?

Mr. INGALLS. It is the bill (H. R. No. 2153) providing for the payment of counsel fees in Osage ceded-land suits.

Mr. WADLEIGH. I object to the consideration of that bill at present.

Mr. McMILLAN. Let us go to the Calendar.

The PRESIDENT *pro tempore*. The next case on the Calendar will be reported.

#### HANSON HARMON.

The bill (H. R. No. 3733) for the relief of Hanson Harmon was considered as in Committee of the Whole. It provides for the payment to Hanson Harmon, of Wilmington, Delaware, of \$334.37 in full for all claims for rent of office for the clerk of the United States circuit and district courts for the district of Delaware, from January 1, 1868, to March 25, 1870.

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

The PRESIDENT *pro tempore*. The next case will be reported.

Mr. DAVIS, of Illinois. I move that the Senate adjourn.

Mr. MITCHELL. Let us pass two or three more bills.

Mr. McMILLAN. We are nearly through the Calendar.

Mr. DAVIS, of Illinois. We have passed more bills now than we ought to have passed. But I will not insist on the motion.

#### GEORGE W. SAULPAU.

The next bill on the Calendar was the bill (S. No. 1390) for the relief of George W. Saulpau; which was considered as in Committee of the Whole. It provides for paying to George W. Saulpau \$7,000, in full compensation for his steamer Alfred Robb, taken by the United States for the use of the Government during the late rebellion.

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

#### ORDER OF BUSINESS.

Mr. WALLACE. I appeal to the Senate now in behalf of the reporters and clerks. We cannot get this work up unless we adjourn. These bills can be passed on Monday morning.

Mr. McMILLAN. I move to take up House bill No. 1371.

Several SENATORS. Regular order.

Mr. INGALLS. I asked the consideration of a bill previously and its consideration was denied. I insist on the regular order or an adjournment.

Mr. McMILLAN. I did not object to the Senator's application, however. When he appealed to me, I consented to withdraw the objection and permit his case to be taken up. I am ready to go on with the Calendar.

Mr. WALLACE. I insist on the motion that the Senate adjourn.

The PRESIDENT *pro tempore*. The question is on the motion to adjourn.

The question being put, there were on a division—ayes 16, noes 19; no quorum voting.

Mr. MORRILL. Then we must adjourn.

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

The PRESIDENT *pro tempore*. Is there a second to the call for the yeas and nays?

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. MORRILL, (when Mr. HOAR's name was called.) The Senator from Massachusetts [Mr. HOAR] is absent this evening on account of business, and is paired with the Senator from West Virginia, [Mr. HEREFORD.]

The roll-call having been concluded, the result was announced— yeas 16, nays 29; as follows:

YEAS—16.			
Allison,	Christiancy,	Kernan,	Morrill,
Barnum,	Cockrell,	McCreery,	Ransom,
Bayard,	Coko,	McPherson,	Saulsbury,
Burnside,	Davis of Illinois,	Merrimon,	Wallace.
NAYS—29.			
Armstrong,	Ferry,	Maxey,	Sargent,
Bailey,	Gordon,	Mitchell,	Spencer,
Beck,	Harris,	Morgan,	Voorhees,
Bruce,	Hereford,	Oglesby,	Windom,
Butler,	Ingalls,	Paddock,	Withers.
Conover,	Jones of Florida,	Plumb,	
Dennis,	McDonald,	Randolph,	
Eaton,	McMillan,	Rollins,	
ABSENT—31.			
Anthony,	Dawes,	Hoar,	Patterson,
Blaine,	Dorsey,	Howe,	Saunders,
Booth,	Edmunds,	Johnston,	Sharou,
Cameron of Pa.,	Eustis,	Jones of Nevada,	Teller,
Cameron of Wis.,	Garland,	Kellogg,	Thurman,
Chaffee,	Grover,	Kirkwood,	Wadleigh,
Conkling,	Hamlin,	Lamar,	Whyte.
Davis of W. Va.,	Hill,	Matthews,	

So the Senate refused to adjourn.

MORGAN'S LOUISIANA AND TEXAS RAILROAD.

The next bill on the Calendar was the bill (S. No. 721) to relieve Morgan's Louisiana and Texas Railroad, formerly the New Orleans, Opelousas and Great Western Railroad, from certain conditions imposed by act of June 3, 1856, chapter 42, section 3.

Mr. ROLLINS. I object.

Mr. DAVIS, of Illinois. Such a bill as that ought not to be passed here at half past eleven o'clock at night without somebody understanding it.

The PRESIDENT *pro tempore*. The bill will be passed over.

JOHN W. SKILES.

The next bill on the Calendar was the bill (H. R. No. 1371) for the relief of John W. Skiles; which was considered as in Committee of the Whole. It provides for the payment of \$1,938.30 to John W. Skiles, being the amount expended and paid by him for the services of civilian clerks in the discharge of his duties as commandant of the draft and recruiting rendezvous for the State of Ohio, at Tod Barracks, Columbus, Ohio, during the years 1864 and 1865, in the recruiting of the Army of the United States.

Mr. ALLISON. I ask that the report be read in that case.

The Secretary proceeded to read the report submitted by Mr. McMILLAN, from the Committee on Claims, on the 12th instant and was interrupted by

Mr. DAVIS, of Illinois. The Senator from Minnesota can probably explain that bill.

Mr. COCKRELL. No, sir; I want to know on what that claim is based. I ask to have the report read.

Mr. VOORHEES. I say that any claim that the Senator from Minnesota reports here and accompanies by a printed report, I am willing to vote for, and I think it is a loss of time to call for the reading of the report, and I hope its reading will be suspended and the bill passed.

Mr. SARGENT. That cannot be done. We have all confidence in the Senator from Minnesota and have confidence in each other; but the report there seems to announce principles which I am not disposed, as far as I have heard it read, to assent to.

Mr. VOORHEES. I am disposed to assent to any principle the Senator from Minnesota announces on a claim.

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

The Secretary continued and concluded the reading of the report, as follows:

The Committee on Claims, to whom was referred the bill (H. R. No. 1371) for the relief of John W. Skiles, have had the same under consideration, and submit the following report:

The claimant represents that during the year 1864-'65 he was major of the Eighty-eighth Regiment Ohio Volunteers, and was assigned to special duty at Tod Barracks, in Columbus, Ohio, as city provost-marshal and commandant of draft rendezvous for the State of Ohio, and that in the discharge of said duty the exigencies of the service required him to employ citizen clerks to assist him; that he paid those clerks a fair compensation for their services, and has never been reimbursed the amount so expended.

The duties required to be performed by said Skiles were of an extensive and responsible character, as is shown by the general order under which he acted, of which the following is a copy:

[General Order No. 305.]  
WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,  
Washington, December 27, 1864.

REGULATIONS CONCERNING MONEYS TAKEN FROM SOLDIERS AT DRAFT RENDEZVOUS.

1. A paymaster will be stationed at such of the draft rendezvous as the Adjutant-General may designate.
2. When an enlisted man arrives at a draft rendezvous any money he may have with him exceeding \$20 will be taken and placed in the hands of the paymaster, who shall enter the amount on a check-book to be given the soldier at the time his money is taken. The entry will be certified in the check-book as the correct amount due the man by the officer commanding draft rendezvous, or some officer to whom he shall assign that duty, and by the paymaster the same amount will be entered on the muster and descriptive list of the soldier.
3. A monthly list of names of men from whom money is taken, with regiments to which they are assigned, amounts taken, and the name of the paymaster to

whom the amounts made out by the commanding officer were turned over, shall be of the draft rendezvous and sent by him to the Adjutant-General and to the Paymaster-General. All desertions, deaths, and discharges will be carefully noted on these lists.

5. The paymaster shall deposit all moneys received in a public depository of the United States, or a national bank, most convenient to his station. In case any of the money received shall be of State bank, or other money not bankable at par, the sum shall be converted into bankable money at the market rates, and the proceeds only of such conversion entered to the credit of the soldier; the cashier of the depository or bank certifying in the check-book the amount in dollars and cents of discount lost by the conversion.

6. When a soldier desires to assign his money, or any part of it, to his family or other person, he shall give an order in duplicate on the paymaster for the amount; and the paymaster shall then pay the amount according to the order; the order shall be certified and certified as genuine by the commanding officer of the rendezvous or the officer specially charged with that duty. The paymaster will issue his check on his depository, payable to the order of the assignee, and himself deliver or mail it direct to the assignee, in no case permitting it to fall into the hands of the soldier. Such check, with number, date, and amount, will be charged in the soldier's check-book, and on his muster and description list, to be deducted from his deposit, and will also be borne on the paymaster's account-current. To guard against collusion between the soldier and the assignee by which the money, or part of it, may be returned to the soldier for dishonest purposes, the paymaster should be satisfied that the assignment is *bona fide*, and to family of the soldier or lawful creditor.

By order of the Secretary of War.

E. D. TOWNSEND,  
Assistant Adjutant-General.

Official:

H. CLAY WOOD,  
Assistant Adjutant-General.

The amount paid by Major Skiles to citizen clerks while in the discharge of said duties is stated in his account as follows:

The United States Dr. to John W. Skiles.

Jan. 19, 1865.	To amount paid John T. Matthews for services as citizen clerk from June 19, 1864, to January 19, 1865, at the rate of \$100 per month.....	700 00
Mch. 24, 1865.	To amount paid to John T. Matthews, as aforesaid, from January 19, 1865, to March 24, 1865, at the rate of \$125 per month.....	270 83
Aug. 1, 1864.	To amount paid John P. Patterson for services as citizen clerk from April 26, 1864, to August 1, 1864, at \$75 per month.....	\$232 50
Aug. 1, 1864.	To amount paid W. O. Talford for services as citizen clerk from April 21, 1864, to August 1, 1864, at \$75 per month.....	242 50
July 1, 1864.	To amount paid Earl P. Douglass for services as citizen clerk from April 15 to July 1, 1864, at rate of \$75 per month.....	187 50
July 1, 1864.	To amount paid H. T. Sage as a citizen clerk for services from April 15 to July 1, 1864, at rate of \$75 per month.....	187 50
June 17, 1864.	To amount paid Ben. H. Hecker for services as citizen clerk from May 1 to June 17, 1864, at rate of \$75 per month.....	117 50
		1,938 30

That said Major Skiles paid the several amounts above stated is conclusively shown by the receipts of the parties to whom said payments were made and by the testimony of officers who were on duty at Tod Barracks at that time.

It further appears that about two months after Major Skiles entered upon duty at said barracks he informed the Provost-Marshal-General at Washington of the employment of citizen clerks, and asked that he might be authorized to continue clerks thus employed on duty. The Provost-Marshal-General informed him that the department did not contemplate the employment of civilians in such positions, and that payment therefor could not be authorized.

Major Skiles, impressed with the idea that it would be impossible for him to discharge the duties imposed upon him by virtue of said office with such clerical help as could be detailed from the Army, consulted with General Heintzelman, in command of the Department of the Ohio, and with other officers of judgment and experience, who advised him to continue the employment of civilian clerks and trust to the Government to reimburse him for money thus necessarily expended.

From the affidavit of James A. Wilcox, on file with the papers in the claim, it appears that during the month of May, 1864, and until the close of the war, he was on duty at Columbus, Ohio, as acting assistant provost-marshal-general and superintendent of recruiting for the State of Ohio, ranking as colonel of the One hundred and thirteenth regiment Ohio Volunteers. That at same time Major Skiles was in charge of draft rendezvous at Tod Barracks, city of Columbus, Ohio. That in the discharge of his duties he (Major Skiles) required the assistance of competent clerks, and that he did employ the same; that the exigencies of the service rendered it absolutely necessary that he should have such a clerical force, and that he does not believe it was possible for Major Skiles to have at that time obtained a detail from the soldiers on duty in Columbus, Ohio, or under his command, who would have been competent to discharge the duties for which such clerical force was necessary.

It also appears from a letter from Second Auditor, on file with the papers in claim, that when the matter of payment of said claim was referred to him, he replied "that Captain Skiles applied to provost-marshal-general for authority to employ certain clerks, but the application was disapproved by that officer May 21, 1864, and that therefore no claim for reimbursement for services of civilians can receive favorable consideration." Major Skiles has filed with his claim certificates from the several bureaus of the War Department showing that his accounts have been closed to the satisfaction of the Government and that he owes it nothing. By a strict construction of the law the Department may be right, but as a matter of justice your committee think that Major Skiles should be repaid the money expended by him in obedience to the exigencies of the service.

Your committee therefore report the bill back and recommend that it pass.

Mr. McDONALD. I do not see exactly on what ground Major Skiles is entitled to be paid for this service.

Mr. ALLISON. The report shows that he applied to the proper Department at Washington and the Department refused to allow him to employ civilians.

Mr. McDONALD. Why should this extraordinary relief be granted?

Mr. McMILLAN. In this case, if this claim cannot be allowed, I would like to find a claim that ought to be allowed.

Mr. DAVIS, of Illinois. I hope the Senator from Minnesota will explain it.

Mr. McMILLAN. Colonel Skiles was an officer in an Ohio regiment. He was detailed as an officer of the Army to take charge of a draft rendezvous at Tod Barracks, Columbus. Under the regulations of

the Army he was required to keep an account of all the moneys received from drafted men, and to keep an account of all the moneys paid to their families, very carefully, to prevent any frauds upon the officers of the Army by which the drafted men should receive the amount of funds in the hands of the provost-marshal intended to go to the families of the soldiers, and to keep an extensive account, which required intelligence and capacity in the clerk.

It was drafted soldiers who were collected there, and the officers of the Army concurred with Colonel Skiles in the fact that the assistance required by him could not be received from the soldiers at the barracks. He applied to the proper officer for compensation for these civilian clerks, but under the rules of the Army they could not allow it. He consulted with General Heintzelman, who was in command at the time, before employing these clerks, and under the advice and consent of his superior officer he employed them, being advised to take the risk, that the Government would pay him.

He settled his account fully with the Government, paid them, and has been without any recompense for the amount paid these civilian clerks during all this time, and he only asks the amount which he actually paid for these services. The Government has had the full benefit of the services of these men and Colonel Skiles has paid into the Treasury of the United States his full account, not deducting this sum, and now he only asks that he be recompensed for the amount of money paid out, he having accounted for it to the United States.

Mr. McDONALD. I should like to ask the Senator from Minnesota if Colonel Skiles had any different duties to perform at this depot from those performed by other officers having charge of recruiting depots or the depots where drafted men were organized, and if there is any principle sanctioning any expenditure of this kind? Has there been any other case presented?

Mr. McMILLAN. I am not aware of any other case.

Mr. McDONALD. Is there any case where it has been allowed to officers organizing recruits to employ civilians as clerks?

Mr. McMILLAN. I am not aware of that fact. I have no knowledge in regard to it. All I know about is this case, and I know that he consulted with General Heintzelman, the officer in command of the department, and upon his advice took the responsibility of employing civilian clerks under the opinion expressed by General Heintzelman that the Government would reimburse him.

Mr. WITHERS. Did I not understand the Senator to say that he had previously applied to the proper authorities and they had notified him that they could not be paid?

Mr. McMILLAN. That they could not pay civilian clerks, and it was after that that General Heintzelman agreed with him that he could not receive the aid required from the force there.

Mr. WITHERS. But being an officer of the Army he was fully cognizant of the fact that General Heintzelman had no authority to set aside the law in the case.

Mr. McMILLAN. He knew that, and General Heintzelman under the circumstances knew what he did when he advised this man to employ this assistance, and that the Government he had no doubt would reimburse him. The bill has passed the House of Representatives. It comes to us here as a bill from the House, and under these circumstances, if there is any reason why this claim should be disallowed, when you allow other claims that have been rejected at the Departments through some technical defect, I cannot see it. This claim certainly should be allowed.

Mr. WITHERS. If this had been an ignorant man who had employed these clerks without any knowledge of the fact that he could not be paid for their services, I should say pay this amount; but he knew the fact that these clerks could not be paid under the law and in defiance of the law continued to employ them. Therefore I cannot consent to vote for the bill.

Mr. McMILLAN. He laid these facts before the commander of the Department, a general of the Army of the United States, and he agreed with him that he should employ this aid and take this risk, and that the Government would reimburse him.

Mr. CHRISTIANCY. Mr. President, it seems to me that this is an entirely equitable claim upon the statement of the Senator from Minnesota. All that is lacking to it is a little red tape. During the war there were many exigencies that did not fall within the Army regulations, and did not exactly conform to the rules of red tape. That is all there is in it. Here was a necessity for the employment of this clerical force of civilians. That necessity the committee are satisfied of. The House has been satisfied, and the equity of it is clear. Shall we deny this remedy because all the red-tape system has not been complied with? That is all there is in this case as it seems to me.

Mr. SARGENT. There is a great deal more in this than red tape. There is a positive prohibition of the statutes. Next, there is the direction of the superior officer to this man not to employ this force, that it would not be paid for, and the only excuse he gives for employing it is that General Heintzelman, who had no power of direction in the matter, advised him that if he violated the law and went contrary to the instructions of the Department at Washington, he would nevertheless be paid.

Mr. McMILLAN. The Senator from California will remember the additional fact that this officer was fully convinced that he could not receive the aid in that way which would enable him to discharge these

duties, and the superior officer on the ground assented to that fact and agreed that he should employ this aid.

Mr. SARGENT. The superior officer on the ground was not his superior officer for any such purpose. He was under the provost-marshal-general. That was his superior officer. He was simply on recruiting service and reported to the provost-marshal-general, and he was the one from whom he was to take his instructions, and those instructions were definite: "You must not employ those men; the Department will not pay for them;" and in spite of this instruction from his immediate superior officer, to whom he was responsible, he went on and did it; and now he comes in and says, "I did it under these circumstances and I desire to be paid." It is not equitable. It is not legal.

Furthermore, it is simply an entering-wedge. How soon will it be before the man who was in charge of the barracks, who testifies in his favor here, James A. Wilcox, will come in with his claim? He says he employed civilian clerks. Has he been paid or not? Can any one tell? If this claim goes through for Skiles, why may not Wilcox then come forward, and then every other man who was at a recruiting station, and say "The means with which the Government provided me—that is to say, the enlisted men that were at my service to perform these duties—were not sufficient, and therefore I organized a department of my own? I employed clerks without authority of law; I organized a little bureau of my own, and now I want to be paid fourteen years after the fact." Can the Senator tell me how much the floating debt of this Government is when we pay bills like this? How many thousands of millions are to come in and be paid by the taxpayers of this country? Can any one limit the amount of debt which we owe, if we owe that at all? Why, sir, we owe it to the Treasury, we owe it to ourselves to not allow our sympathies to carry us away to throw a couple of thousand dollars out of the window here and out of the window there, five or ten thousand more where the claim on its face and by the testimony brought forward to support it is illegal in every respect.

Now, sir, I move the indefinite postponement of the bill.

Mr. McMILLAN. The Senator from California ignores the fact that the opinion of the officers there was that the force required for this service could not be furnished by the Government. That is a fact which is found to exist here, that his superior officer, if he refused to pay this amount, could not furnish him the aid required, and upon consultation, the commander of the department concurring with him that it was necessary for him under the circumstances to employ civilians as clerks, he did it and paid them for it. The Government has received their services and he has settled all his accounts with the Government without waiting to be reimbursed. Taking the risk, he has paid his accounts, has settled them fully, and now only asks that he be reimbursed the amount he paid for the services which the Government has received when they could not furnish the aid needed themselves. Is not this an equitable case? They said they could not pay civilian clerks; but why did they not give him other clerks? Then the fact is shown here that they could not furnish him those clerks; General Heintzelman agreed that they could not furnish him those clerks. Why then should he not be paid, having served his country faithfully, disabled by the loss of his arm, adverse circumstances rendering him here now so that he is deprived of sufficient to live upon? Shall we come in and say that, because the rule merely requires that civilians must not be employed, he cannot be reimbursed for what he actually paid. Is the Government going to stand upon that rule in regard to this man who is stalking about the streets here disabled in this way, with but one arm, so that he cannot support himself as he would have done if he had not entered the Army and engaged in the service of the country? It seems to me there are equities here that the Senate should not ignore. The House has examined the case fully.

Mr. SARGENT. The Senator is out of order there. He has no right to refer to the action of the House.

Mr. McMILLAN. I am sorry if it is so.

The PRESIDENT *pro tempore*. The Senator from California moves the indefinite postponement of the bill.

Mr. HEREFORD. I was on the committee to which this claim was referred, and I believe the claim ought to be paid. I place it upon this ground: the officer in command, General Heintzelman, who was the person to furnish this man force from the Army, told him he could not do it; he had not the men.

Mr. SARGENT. The report does not say that.

Mr. HEREFORD. They were not furnished to him. He did hire civilians; they did perform the service. He settled his accounts as an honest man with the Government, and does not owe it a dollar. He paid these clerks out of his own pocket. The Government has got the services of these men and has got this man's money, and I do not think that it is honest that the Government should keep the money or the property or the service of any man without paying for it.

Mr. WITHERS. What money of this man has the Government got. Mr. HEREFORD. They got the money that this man paid to these clerks.

Mr. WITHERS. I thought the clerks got it.

Mr. HEREFORD. But the Government got the benefit of it. The Government got the services and this man paid for them; and I do not think it is honest in a great Government to receive the services of a man without paying him for them. I do not think it is honest

for this Government to take the property of a citizen either without paying him for it. I know nothing about this man and I care nothing about him, but the claim is honest.

Mr. WITHERS. I expect there is as much honesty on the part of those who take a different view as on the part of those who maintain the contrary.

Mr. HEREFORD. Of course.

Mr. WITHERS. My objection to paying this bill is that the services of these men were secured and employed contrary to the express direction of his superior officer and with full knowledge of the fact that it was contrary to law and that they would not be paid that he persisted in employing them. I can very readily understand how an officer at a post of this kind, who can command the services of a competent civilian clerk, an expert, would prefer securing those services to taking the chances of detailing men from the service to attend to the clerical duties. But after he was notified that the law would not permit the payment of these men, for him to persist in employing them, I think it is the height of impudence, then, to come back and ask the Congress of the United States to reimburse him for an expense which he incurred with the full knowledge of the fact that he was violating the law when he did it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from California to postpone the bill indefinitely.

Mr. WITHERS. I call for the yeas and nays. The bill is a proposition to pay money out contrary to the provisions of law.

Mr. SPENCER. I object to the bill; and let us go to the next one on the Calendar.

The PRESIDENT *pro tempore*. The further consideration of the bill is objected to.

ORDER OF BUSINESS.

Mr. PADDOCK. I ask leave to take up a resolution for the purpose of referring it to a committee. ["Calendar!" "Calendar!"]

Mr. VOORHEES. We are sitting here for the Calendar.

Mr. MORRILL. Mr. President, if we have no mercy on ourselves, we ought to have some mercy on the clerks, and I therefore move that the Senate do now adjourn.

A division was called for.

Mr. SARGENT. I think we had better adjourn.

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

The yeas and nays were ordered; and being taken resulted—yeas 20, nay 20; as follows:

YEAS—20.

Allison,	Christiancy,	Kernan,	Sargent,
Bailey,	Cockrell,	McMillan,	Saulsbury,
Barnum,	Coke,	McPherson,	Saunders,
Bayard,	Davis of Illinois,	Morrill,	Wadleigh,
Burnside,	Gordon,	Rollins,	Wallace.

NAYS—20.

Armstrong,	Ferry,	McDonald,	Paddock,
Butler,	Harris,	Maxey,	Ransom,
Conover,	Hereford,	Mitchell,	Spencer,
Dennis,	Ingalls,	Morgan,	Voorhees,
Eaton,	Jones of Florida,	Oglesby,	Withers.

ABSENT—36.

Anthony,	Davis of West Va.,	Hoar,	Merrimon,
Beck,	Dawes,	Howe,	Patterson,
Blaine,	Dorsey,	Johnston,	Plumb,
Booth,	Edmunds,	Jones of Nevada,	Randolph,
Bruce,	Eustis,	Kellogg,	Sharon,
Cameron of Pa.,	Garland,	Kirkwood,	Teller,
Cameron of Wis.,	Grover,	Lamar,	Thurman,
Chaffee,	Hamlin,	McCreery,	Whyte,
Conkling,	Hill,	Matthews,	Windom.

So the Senate refused to adjourn.

WILLIAM C. EDMONSTON.

The next bill on the Calendar was the bill (S. No. 295) for the relief of William C. Edmonston; which was considered as in Committee of the Whole. It provides for the payment to William C. Edmonston of such legitimate fees as he earned and expenses incurred as gauger in the first district of Alabama in the months of September, October, and November, 1872, under employment of the collector and assessor of internal revenue at Mobile, Alabama, in the absence from the district, during these months, of the gauger appointed by the Secretary of the Treasury, and the Secretary of the Treasury being duly notified and consenting to the employment of Edmonston.

Mr. COCKRELL. Let the report be read.

The Secretary read the following report, submitted by Mr. MITCHELL on the 12th instant:

The Committee on Claims, to whom was referred the bill (S. 295) for the relief of William C. Edmonston, have considered the same with care, and report as follows, copying the House report on same subject:

That said Edmonston was a deputy collector of internal revenue for the first district of Alabama, (Mobile,) and was located there during the year 1872, up to the date of claimant's petition, November 4, 1877, but only till the spring of 1873 did he act as such deputy.

Previous to September, 1872, there were two United States gaugers in said district, duly commissioned by the Secretary of the Treasury according to law. One of the gaugers, Bates by name, was removed, and the other, George F. Yarrington by name, was absent from the district on leave in New York, and when about to return to his duties was taken sick, and remained so for several months in New York, unable to return to his district, and thus the district was left without a gauger to supply the wants of wholesale liquor dealers and merchants, nor the joint distillers, who were at the time, in consequence thereof, unable to have their products removed.

In this state of things, the whole business being suspended in the district, this difficulty was met by said claimant, the former gauger, and whose commission had

never been revoked, in fact, by the Secretary of the Treasury, although said claimant became storekeeper of the tobacco-warehouse at port of Mobile, but his commission as gauger was still in full force and virtue, and he was employed for the months of September, October, and November, 1872; the Secretary of the Treasury and the assessor and collector of the district being informed by letter of his so acting, and of all the facts and circumstances of the case, and they were requested to notify by telegraph if there was objection to said claimant being so employed. No answers were returned, and no provision was made for any other person to transact the business, and said Edmonston continued to act as gauger for said three months and until the return of said Yarrington from New York.

And the said Edmonston sent in his accounts for settlement, and was informed he could not be paid without an act of Congress authorizing it. Said Edmonston, as fully appears by adequate proof, faithfully performed his duties as such gauger and paid his own expenses in traveling around the country in the due discharge of his duties.

The pay of gaugers, established by regulation of the Secretary of the Treasury, is in fees earned in gauging spirits, and that no other gauger received pay for the said months as gauger in said district.

The records at Washington show that said Edmonston had been displaced as gauger and another man appointed to his place before he performed the services claimed for in his petition; but that he did perform the services is not questioned, but is fully established. It is also shown by the statement of the Commissioner of Internal Revenue that the services were performed, and that the same is of the value of \$301.21.

Your committee think the said Edmonston should be paid fairly for said services, and therefore report the bill back and recommend its passage.

Mr. McDONALD. I hope that bill will be passed over.

Mr. MITCHELL. It is a very small matter and very meritorious I think. I hope the Senator will not object; it was examined by the committee carefully.

Mr. McDONALD. The Mobile collector's office has not a very good odor.

Mr. MITCHELL. That may be, but that does not affect this case.

Mr. McDONALD. I think the Senator from Alabama [Mr. MORGAN] could give some information on the subject.

Mr. MITCHELL. I do not know what the Senator from Alabama knows about this matter. The Committee on Claims was intrusted with the consideration of this subject, and they considered it very carefully. The whole sum and substance of the case is this: there were two gaugers in the Mobile district; one was removed for cause; the other went to New York and was taken sick.

Mr. McDONALD. I withdraw the objection.

Mr. MITCHELL. And this gentleman performed the service.

Mr. WITHERS. Did I understand from the report that the person who employed this man telegraphed for permission to employ him and got no answer?

Mr. MITCHELL. Not that exactly. He was retained by the collector to perform this service as gauger, and the collector telegraphed to the Commissioner of Internal Revenue to know whether there was any objection, and asking the Commissioner of Internal Revenue if there was objection to say so, and no answer was received.

Mr. WITHERS. That is substantially what I understood before. It is precisely like the other case, except that in this case no answer was given, and he assumed that he was authorized.

Mr. MITCHELL. The collector stated the circumstances that the gauger was sick in New York, that there was no officer there, that this person was willing to enter on the duties and perform the service, and asked the Commissioner of Internal Revenue whether there was any objection to this course, and if there was then to telegraph. No answer came, and he went on and discharged his duties.

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

L. MADISON DAY.

The next bill on the Calendar was the bill (S. No. 1391) for the relief of L. Madison Day.

Mr. HARRIS. I object to that case.

Mr. DAVIS, of Illinois. Let it be passed over until next session.

The PRESIDENT *pro tempore*. The bill will be passed over.

LIFE-SAVING SERVICE.

The next bill on the Calendar was the bill (H. R. No. 3988) to reorganize the life-saving service.

Mr. SARGENT. I want to debate that bill rather more at length than I can under the five-minute rule.

The PRESIDENT *pro tempore*. The bill will be passed over.

SOUTHERN PACIFIC RAILROAD.

The next case on the Calendar was the bill (S. No. 1140) authorizing the Southern Pacific Railroad Company to construct, maintain, and operate a bridge across the Colorado River at Fort Yuma, in the State of California and in the Territory of Arizona.

Mr. BUTLER. I object to that case.

Mr. McMILLAN. I move that the Senate adjourn.

The motion was agreed to; and (at eleven o'clock and forty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, June 15, 1878.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON.

The Clerk proceeded to read the Journal of yesterday.

Mr. DUNNELL: I move the further reading of the Journal be dispensed with.

The motion was agreed to.

Mr. TUCKER. I call up the regular order of business.

INTERNAL REVENUE.

The SPEAKER. The House is now acting under a suspension of the rules, and the gentleman from Kentucky [Mr. CARLISLE] will take the Chair.

Mr. BURCHARD. Let us finish the resumption act upon which a vote was had yesterday. We desire to concur in the amendment of the Senate.

The SPEAKER. The Chair will recognize whoever is selected by the Committee on Banking and Currency on this bill. The gentleman from Kentucky will please take the chair.

Mr. WADDELL. Is a motion to suspend the rules in order?

The SPEAKER. The House is acting under a suspension of the rules now.

The SPEAKER *pro tempore*, (Mr. CARLISLE.) The House is now as in Committee of the Whole, and resumes the consideration of the bill (H. R. No. 4414) in relation to internal revenue, and the gentleman from Illinois [Mr. TOWNSHEND] is entitled to the floor.

Mr. TOWNSHEND, of Illinois. I offer the following amendment, to come in at the end of line 22, section 14:

That all of that portion of the sixth clause of section 3244 of the Revised Statutes of the United States embraced in the following words: "Provided, That nothing in this section shall be construed to exempt from a special tax any farmer or planter who, by peddling or otherwise, sells leaf-tobacco at retail, directly to consumers, or who sells or assigns, consigns, transfers, or disposes of, to persons other than those who have paid a special tax as leaf dealers or manufacturers of tobacco, snuff, or cigars, or to persons purchasing leaf-tobacco for export," be, and the same is hereby, repealed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, requested the return to the Senate of the bill (S. No. 1088) to provide for the revision and correction of assessments for special improvements in the District of Columbia, and for other purposes.

INTERNAL-REVENUE LAWS.

The House resumed the consideration of the bill in relation to the internal-revenue laws.

Mr. TOWNSHEND, of Illinois, rose.

Mr. CONGER. I raise the point of order that this is not the regular order of business.

The SPEAKER *pro tempore*. This came up as the unfinished business and was so ordered before the chair was taken by its present occupant.

Mr. CONGER. I raise the question of consideration.

The SPEAKER *pro tempore*. It is too late to do so.

Mr. CONGER. Then I move that the bill be postponed until next session.

Mr. TOWNSHEND, of Illinois. I object. I have the floor.

The SPEAKER *pro tempore*. The gentleman from Illinois [Mr. TOWNSHEND] is on the floor.

Mr. CONGER. At the proper time I will move to postpone.

Mr. TOWNSHEND, of Illinois. I insist on my right to be heard in support of my amendment. I do not propose to be taken off the floor by the gentleman from Michigan.

Mr. CONGER. I beg the gentleman's pardon. I have no wish to take him off the floor. I will make my motion hereafter.

Mr. TOWNSHEND, of Illinois. The reasons impelling me to offer this amendment were induced partly by this circumstance: a short time before my departure from home for this city last summer I met on the railway a neighboring farmer who owned a small piece of land. I found him in custody of a deputy United States marshal, who was taking him to Springfield, the State capital, where the United States courts are held, some two hundred miles away. The only charge against him was that on his little farm, devoted mainly to other agricultural productions, he had raised a very small patch of tobacco, intending it for his own consumption, but the necessity for bread in his family store rendered it necessary for him to forego his luxury and part with it. He had placed the tobacco under his arm, being the entire crop produced by him, and at a neighboring mill exchanged it for flour. Remember, the tobacco had been planted, cultivated, and gathered by his own labor, with no help save Him who gives the increase. The farmer was entirely ignorant of the legal restriction upon his right to dispose of the product of his farm to whomsoever he pleased. A malignant neighbor, moved by a grudge, being better advised, had informed the United States revenue officers. These officers and the marshal, knowing there would be fees in their pockets, no matter what became of the unsophisticated farmer, had caused this man to be arrested, torn from his home and horror-stricken family, and the deputy marshal was conveying him two hundred miles away to answer this as a criminal charge.

I asked myself can it be possible, considering the character of the men from whom we have sprung and who made this Government, men who a hundred years ago rose in rebellion because a small tax had been levied upon a foreign product—tea—that the descendants of those men of the third and fourth generations were being thrown into prison for daring to sell the product of their own labor in order to obtain the necessities of life for their families; can it be possible that

a man is not permitted to exchange his own honestly-acquired, God-given property for bread?

But, sir, as grievous and humiliating as it may seem, it must be confessed that our statute-book is disgraced with just such a law. The provision I seek to repeal prohibits a man from exchanging or selling this product of his farm to the highest and best purchaser, even where it be necessary to obtain the necessities of life.

Now, Mr. Speaker, if you can by law restrict a farmer in the sale of his tobacco, I ask if it is not also in the power of Congress to enact a law restricting farmers in the sale of corn, wheat, or any other product except to a certain privileged class? If you build up such a class having a monopoly of the right to purchase the agricultural products of the country, will you not bind hand and foot the producing classes and deliver them over to the power and control of a combination having the power governed by their greed and avarice to fix the price of farm products?

In my judgment, the foundation of the wealth and prosperity of this country rests upon the producing classes; when you strike down that class you will have retarded the growth and development of this land and shattered the basis of its greatness.

If the revenue officials who had arrested my neighbor had been in office in the day of our earliest ancestor, Adam, they would not have arrested him or his wife for stealing from the tree of forbidden fruit, but, sir, if Adam had dared to exchange tobacco produced by the sweat of his brow with the men of Nod or any other land, he would have been arrested and thrown into a prison.

The letter of the law is as I have stated it, but when I contemplate the purposes for which this Government was established, when I read in the Constitution that it was ordained "to establish justice, promote the general welfare, and secure the blessings of liberty," when I go farther back and read in that Declaration of Independence which gave birth to the Constitution that all men are endowed by their Creator with the inalienable rights of "life, liberty, and the pursuit of happiness"—as these reflections run through my mind, I am driven to the belief that this law is unconstitutional. It is violative of the spirit of the Constitution, as it is certainly in violation of the inalienable right of man to exchange his property for bread. As I have already said, if you can dictate to whom the farmer may sell his leaf-tobacco, you can dictate to whom he may sell his corn and wheat; if you can deprive him of the right to sell his leaf-tobacco to his neighbor for consumption, you can deprive him of the right to sell his corn or wheat to his starving neighbor for food. Such a law is unjust. It is not an enactment of freedom; it is an edict of tyranny.

While on this subject I will avail myself of the liberty of saying that our system of Federal taxation is wrong. Taxation should be equal and uniform and in proportion to the amount of property. Dollars, not individuals, should be taxed. Every man should bear the burden of taxation in proportion to the value of the property he possesses. The larger the amount of property a man possesses, the greater the amount of protection he receives from the Government. Among the principal objects of government is the protection of property, and yet we find under our system that the poor pay as much Federal taxation as the rich. It is especially so in regard to the internal-revenue tax, of which by far the heaviest proportion falls upon the impoverished South and the young and undeveloped West. In 1875 the West and South paid into the national Treasury as internal-revenue taxes the sum of \$75,361,276.38, while the New England and Middle States only paid \$28,123,789.42. My own State, although ranking only fourth in population in the Union, paid last year a much larger sum than any other State.

I have no time now to dwell upon figures, but I desire to call attention to a table, for which I am indebted to the speech made during this session by the gentleman from Virginia, [Mr. TUCKER:]

Localities.	1867.	Actual in 1875.	Proper proportion in 1875.
Northeastern States .....	\$46,915,829 42	\$4,003,155 13	\$19,674,380
Middle States .....	95,082,021 95	24,120,642 29	39,808,589
Northwestern States .....	45,144,364 71	43,476,094 73	18,931,507
South Middle States .....	22,631,406 18	26,181,412 74	9,490,587
South cotton States .....	30,104,904 81	2,587,246 11	12,624,637
Pacific States .....	7,477,667 89	3,115,922 80	3,135,796
Total .....	247,356,194 96	103,485,073 80	103,665,496

Before I yield the floor, as a parting word, I desire to remind this House that the national legislation of the past fifteen years has borne heavily upon the agricultural classes; so grievously are they oppressed that they are unwilling to submit to further endurance. They constitute the bone and sinew of this land. They are patient, law-abiding, self-sacrificing, and ardent lovers of their Government, but as they are the main support of the social and political fabric they feel that they have a right to demand relief from the oppressive features of the present laws.

This amendment is a step in that direction, and I now conclude with an earnest appeal to you who are the direct representatives of the people to listen to their complaint and commence at once to repeal the unjust legislation of the past.

[Here the hammer fell.]

Mr. BURCHARD. I desire to say that the change of law in this matter proposed by the committee is in its judgment as fair as should be made. This is also the judgment of the Commissioner of Internal Revenue. To admit the amendment which my colleague [Mr. TOWNSHEND] has offered would be very unsafe and I hope it will not be adopted.

Mr. TUCKER rose.

Mr. TOWNSHEND, of Illinois. I hope the gentleman from Virginia will explain what is the change proposed in the bill.

The SPEAKER *pro tempore*. The gentleman from Michigan [Mr. CONGER] is recognized to make a proposition in regard to this bill.

Mr. CONGER. In view of the late period of the session which we have now reached and the utter impossibility of being able to agree upon a bill that would be satisfactory to the friends of the different interests embraced in it, and that it may have fair consideration, I move the postponement of this bill until the second Wednesday of January next, after the morning hour, and upon that motion I call the previous question.

Mr. ROBBINS. I hope the gentleman from Michigan will allow me to say a word upon this question.

Mr. CONGER. Holding the floor I yield one minute to the gentleman from North Carolina if I have two minutes left.

The SPEAKER *pro tempore*. There is one minute remaining of the gentleman's time.

Mr. CONGER. Then I cannot yield.

The SPEAKER *pro tempore*. The Chair does not include the time that was taken up in bringing the House to order.

Mr. BANNING. The object of this motion is to defeat all the work that has been done on the bill.

Mr. CONGER. No, sir; the object is to save all the work that has been done on the bill and have it go over until the next session of Congress.

Mr. BANNING. The object is to continue the imposition upon these interests which have been wronged year by year.

Mr. BURCHARD. I rise to a point of order; and it is that under the rules this bill is to be considered under the five-minute rule and the gentlemen desiring to oppose an amendment or proposition would have five minutes. I shall not resist the ordering of the previous question, but I desire five minutes to reply to the gentleman from Michigan.

Mr. ROBBINS. The gentleman from Michigan yielded to me as I am interested in this subject, and I hope that at some time I shall be allowed a hearing before the House votes.

The SPEAKER *pro tempore*. The Chair understands that the gentleman from Michigan did not yield.

Mr. ROBBINS. I think he had agreed to do so.

Mr. VANCE. We will vote down the previous question.

Mr. BURCHARD. Under the order of the House this bill was to be considered as in Committee of the Whole under the five-minute rule, which allows five minutes for and five minutes against an amendment or proposition. Now, the gentleman from Michigan has had his five minutes. I rise now *pro forma* to oppose the motion.

The SPEAKER *pro tempore*. The gentleman from Michigan demanded the previous question, and while it is true that this bill is being considered in the House as in Committee of the Whole, the practice of the House in such cases has been to allow the previous question to be ordered, to allow the yeas and nays to be taken, to allow motions to adjourn to be made, and all other things to be done that could be done in the House itself.

Mr. BURCHARD. Well, I ask the gentleman from Michigan to yield to me as I have charge of the bill. I shall vote with the gentleman, but I desire to say a word in explanation.

Mr. ROBBINS. I hope some one on the other side will be allowed a hearing.

Mr. BURCHARD. I will renew the call for the previous question.

Mr. CABELL. I hope that if any time is yielded that this side of the House will have some of it, as well as the other.

Mr. CONGER. There are so many gentlemen who desire to speak that it seems to me we ought not to take up the time of the House from other business, and I must insist on the demand for the previous question.

Mr. BANNING. There is no other business so important as this.

Mr. CONGER. I insist on the demand for the previous question.

Mr. ROBBINS. I hope the House will kill the bill rather than postpone it, and thereby relieve the tobacco interest from the uncertainty that hangs over it.

Mr. TUCKER. I rise to a point of order, and it is that when we are considering an amendment under the five-minute rule it is not competent for the gentleman from Michigan to interject a motion distinct from that, to postpone the consideration of the whole bill.

The SPEAKER *pro tempore*. The Chair thinks that under the practice of the House it is competent, while the House is considering a bill as in Committee of the Whole, for a gentleman who succeeds in getting the floor to make a motion to postpone both the bill and the pending amendment.

Mr. TUCKER. Very well, then I hope the previous question will be voted down.

Mr. FOSTER. I rise to make a parliamentary inquiry. Would it be in order now to move to strike out the enacting clause of the bill?

Mr. BURCHARD. That motion could not be made in the House. The SPEAKER *pro tempore*. The Chair thinks that that motion cannot be made until the bill has been read through under the order of the House.

Mr. FOSTER. If this motion should be voted down, would it be in order to move to strike out the enacting clause?

The SPEAKER *pro tempore*. The Chair thinks not until the bill has been read through.

Mr. CONGER. I do not yield for any motion to be made. Of course I have to yield to points of order.

Mr. EDEN. Is debate in order pending the demand for the previous question?

The SPEAKER *pro tempore*. It is not, but gentlemen all over the House are rising to points of order and the Chair is bound to entertain them.

Mr. EDEN. But there ought not to be more than one at a time.

The SPEAKER *pro tempore*. There will be only one at a time if the Chair can succeed in holding it at that.

The previous question was seconded and the main question ordered.

Mr. CONGER moved to reconsider the vote by which the main question was ordered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ROBBINS. I ask the privilege to speak two minutes upon this question, and hope it will be granted.

Mr. WHITE, of Pennsylvania. I object.

Mr. BANKS. Oh, no, let him have it.

Mr. WHITE, of Pennsylvania. I will not withdraw my objection.

Mr. BURCHARD. I move to suspend the rules so that the gentleman from North Carolina may have two minutes.

The SPEAKER *pro tempore*. The Chair thinks that the gentleman cannot move to suspend the rules after the previous question has been ordered.

Mr. BUTLER. The motion to suspend the rules would suspend that rule as well as others.

Mr. BURCHARD. I rise to a point of order, and it is that during the proceedings upon a bill under consideration under a suspension of the rules it has been decided over and over again that a motion to suspend the rules on matters relating to the subject is in order.

The SPEAKER *pro tempore*. After the previous question has been seconded and the main question ordered?

Mr. BURCHARD. Yes; the rule for the previous question is one of the rules that would be suspended.

The SPEAKER *pro tempore*. But the main question has been ordered.

Mr. BURCHARD. One minute, if the Chair pleases. I have had charge of this bill; but I am opposed to certain propositions which have been attached to it, particularly the amendment in relation to the tax on tobacco, and therefore I should vote against the bill as it now stands.

Mr. ROBBINS. We will modify the objectionable features.

Mr. BURCHARD. The bill now changes the tax on tobacco. I hold that at this time it is in order to move to suspend the rules so as to strike out the section to which that amendment has been attached. [Cries of "Regular order!" "Regular order!"]

The SPEAKER *pro tempore*. Debate is not now in order. The question is upon the motion of the gentleman from Michigan [Mr. CONGER] to postpone the further consideration of this bill and pending amendments thereto until the second Wednesday in January next after the morning hour. Upon that motion the main question has been ordered.

Mr. MCKENZIE. I call for the yeas and nays on that.

Mr. SAYLER. I rise to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. SAYLER. Is this a motion to suspend the rules, or is it a simple motion?

The SPEAKER *pro tempore*. It is a simple motion, to be decided by a majority vote.

Mr. MCKENZIE. I withdraw the call for the yeas and nays.

The question was taken upon the motion of Mr. CONGER; and upon a division there were—ayes 78, noes 101.

Before the result of this vote was announced,

Mr. CONGER said: What is the question upon which the House is now voting?

The SPEAKER *pro tempore*. The motion made by the gentleman from Michigan himself, to postpone.

Mr. CONGER. There was a misunderstanding on this side of the House. Many members supposed that the question was upon ordering the yeas and nays.

The SPEAKER *pro tempore*. The Chair stated the question distinctly.

Mr. CONGER. Then I call for the yeas and nays on the motion to postpone.

The yeas and nays were ordered.

Mr. SAYLER. I give gentlemen warning that if they propose to filibuster on this question we will delay the question as long as they may want.

Mr. CONGER. I thank the gentleman for his notice; we will know at the end of the session what they have done.

The question was taken; and there were—yeas 103, nays 146, not voting, 42; as follows:

YEAS—103.

- |                   |                  |                  |                   |
|-------------------|------------------|------------------|-------------------|
| Aldrich,          | Davis, Horace    | Keightley,       | Ryan,             |
| Bacon,            | Deering,         | Ketcham,         | Sampson,          |
| Bagley,           | Denison,         | Killingier,      | Sapp,             |
| Baker, John H.    | Dunnell,         | Lapham,          | Shallenberger,    |
| Baker, William H. | Dwight,          | Lathrop,         | Sinnickson,       |
| Banks,            | Eames,           | Lindsey,         | Smith, A. Herr    |
| Bayne,            | Ellsworth,       | Lockwood,        | Starin,           |
| Beebe,            | Errett,          | McCook,          | Stewart,          |
| Bisbee,           | Evans, James L.  | McKinley,        | Stone, John W.    |
| Blair,            | Frye,            | Mitchell,        | Stone, Joseph C.  |
| Boyd,             | Gardner,         | Monroe,          | Strait,           |
| Brentano,         | Hale,            | Norcross,        | Thompson,         |
| Brewer,           | Hanna,           | Oliver,          | Townsend, Amos    |
| Briggs,           | Harmer,          | O'Neill,         | Townsend, M. I.   |
| Brown,            | Harris, Benj. W. | Overton,         | Wait,             |
| Bundy,            | Hayes,           | Page,            | Ward,             |
| Burcland,         | Hendee,          | Patterson, G. W. | Watson,           |
| Campbell,         | Hiscock,         | Peddle,          | Welch,            |
| Cannon,           | Hubbell,         | Phillips,        | White, Harry      |
| Caswell,          | Hunter,          | Potter,          | White, Michael D. |
| Claflin,          | Humphrey,        | Pound,           | Williams, Andrew  |
| Conger,           | Hungerford,      | Powers,          | Williams, C. G.   |
| Crapo,            | James,           | Price,           | Williams, Richard |
| Cummings,         | Jones, John S.   | Reed,            | Willits,          |
| Cutler,           | Joyce,           | Rice, William W. | Wren.             |
| Danford,          | Keifer,          | Robinson, G. D.  |                   |

NAYS—146.

- |                     |                  |                   |                   |
|---------------------|------------------|-------------------|-------------------|
| Acklen,             | Davidson,        | Hunton,           | Ross,             |
| Aiken,              | Davis, Joseph J. | Itner,            | Saylor,           |
| Atkins,             | Dean,            | Jones, Frank      | Scales,           |
| Banning,            | Dibrell,         | Jones, James T.   | Schleicher,       |
| Bell,               | Dickey,          | Jorgensen,        | Sexton,           |
| Bicknell,           | Douglas,         | Kelley,           | Shelley,          |
| Blackburn,          | Durham,          | Kenna,            | Singleton,        |
| Bliss,              | Eden,            | Kimmel,           | Smalls,           |
| Boone,              | Eickhoff,        | Knott,            | Smith, William E. |
| Bouck,              | Elam,            | Landers,          | Southard,         |
| Bragg,              | Ellis,           | Ligon,            | Sparks,           |
| Bridges,            | Ewins, John H.   | Luttrell,         | Springer,         |
| Bright,             | Ewing,           | Maish,            | Steele,           |
| Brogden,            | Felton,          | Marsh,            | Stenger,          |
| Butler,             | Forney,          | Mayham,           | Stephens,         |
| Cabell,             | Foster,          | McKenzie,         | Swann,            |
| Cain,               | Franklin,        | McMahon,          | Throckmorton,     |
| Caldwell, John W.   | Fuller,          | Metcalfe,         | Townshend, R. W.  |
| Caldwell, W. P.     | Garth,           | Mills,            | Tucker,           |
| Candler,            | Gause,           | Morgan,           | Turner,           |
| Carlisle,           | Giddings,        | Morrison,         | Turney,           |
| Chalmers,           | Goode,           | Muller,           | Vance,            |
| Chittenden,         | Hamilton,        | Neal,             | Veeder,           |
| Clark, Alvah A.     | Hardenbergh,     | Patterson, T. M.  | Walker,           |
| Clark of Missouri,  | Harris, Henry R. | Phelps,           | Warner,           |
| Clarke of Kentucky, | Harris, John T.  | Pollard,          | Whitthorne,       |
| Clymer,             | Harrison,        | Pridemore,        | Wigginton,        |
| Cobb,               | Hart,            | Rainey,           | Williams, A. S.   |
| Cole,               | Hartridge,       | Randolph,         | Williams, James   |
| Collins,            | Hartzell,        | Rea,              | Willis, Albert S. |
| Cook,               | Hatcher,         | Reagan,           | Willis, Benj. A.  |
| Covert,             | Henry,           | Reilly,           | Wilson,           |
| Cox, Jacob D.       | Herbert,         | Rice, Americus V. | Wood,             |
| Cox, Samuel S.      | Hewitt, Abram S. | Riddle,           | Wright,           |
| Cravens,            | Hewitt, G. W.    | Robbins,          | Young.            |
| Crittenden,         | Hooker,          | Roberts,          |                   |
| Culberson,          | House,           | Robertson,        |                   |

NOT VOTING—42.

- |                  |            |          |                   |
|------------------|------------|----------|-------------------|
| Ballou,          | Fort,      | Loring,  | Robinson, M. S.   |
| Benedict,        | Freeman,   | Lynde,   | Stemons,          |
| Bland,           | Garfield,  | Mackey,  | Thornburgh,       |
| Blount,          | Gibson,    | Manning, | Tipton,           |
| Buckner,         | Glover,    | Martin,  | Van Vorhes,       |
| Burdick,         | Gunter,    | McGowan, | Waddell,          |
| Calkins,         | Haskell,   | Money,   | Walsh,            |
| Camp,            | Hazelton,  | Morse,   | Williams, Jere N. |
| Clark, Rush      | Henderson, | Muldrow, | Yeates.           |
| Evans, I. Newton | Henkle,    | Pugh,    |                   |
| Finley,          | Knapp,     | Quinn,   |                   |

So the motion to postpone was not agreed to. During the call of the roll the following announcements were made: Mr. LYNDE. I am paired with Mr. LORING, of Massachusetts. If he were present, I would vote "no." Mr. PUGH. I am paired with Mr. MARTIN, of West Virginia. If he were present, he would vote "no" and I would vote "ay." Mr. MCGOWAN. I am paired with Mr. GUNTER, of Arkansas, who has been called home on account of the serious illness of a member of his family. If he were present, I would vote "ay." Mr. FORT. I am paired with the gentleman from Mississippi, Mr. MANNING.

The result of the vote was then announced as above stated.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. REAGAN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4236) making appropriations for the construction, repair, preservation, and completion of certain public works on rivers and harbors, 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 1, 11, 17, 20, 38, 50, 54, and 58.

That the House recede from its disagreement to the amendments numbered 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 18, 19, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 40, 41, 42, 43, 44, 46, 47, 48, 49, 51, 52, 53, 55, 56, 57, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, and 85.

That the Senate recede from its amendment numbered 21, with an amendment as follows:

Strike out all after the word "Arkansas," in line 10, page 4 of the bill, down to and including the words "seventy-five," in lines 11 and 12, same page, and insert in lieu the word "forty."

And the House agree to the same. That the House recede from its disagreement to the amendment numbered 24 and agree to the same, with an amendment as follows:

After the word "Missouri," in said amendment, insert the word "River."

And the Senate agree to the same. That the Senate recede from its amendment numbered 39, with an amendment as follows:

In lieu of "two hundred" insert "one hundred and fifty."

And the House agree to the same. That the House recede from its disagreement to the amendment numbered 45, and agree to the same, with an amendment as follows:

After the word "at," in the said amendment, insert the words "or near."

And the Senate agree to the same.

JOHN H. REAGAN,  
JOHN E. KENNA,  
MARK H. DUNNELL,  
*Conferees on the part of the House.*  
GEORGE E. SPENCER,  
S. J. R. McMILLAN,  
M. W. RANSOM,  
*Conferees on the part of the Senate.*

Mr. COX, of New York, Mr. EDEN, and others addressed the Chair. Mr. REAGAN. If I can be permitted, I will state in a word or two the effect of this report. The bill as agreed to by the conference committee makes but little variance from the aggregate amount of the bill as amended by the Senate, reducing that amount about \$39,000.

Mr. COX, of New York. What is the present aggregate of the bill? Mr. REAGAN. Will the gentleman wait a moment till I tell him? Mr. COX, of New York. I will, if the gentleman will not call the previous question.

Mr. REAGAN. The bill as now reported embraces appropriations amounting to about \$8,361,000. I will add that, if my individual wishes had been consulted, the bill would not have reached this amount; but this is the result of the action of the two Houses. I move the previous question on the adoption of the report.

Mr. COX, of New York, Mr. EDEN, and others addressed the Chair. The SPEAKER *pro tempore*. Debate is not in order.

Mr. COX, of New York. I have a right then to demand the yeas and nays.

Mr. TUCKER. I hope that the internal-revenue bill will not be delayed by the yeas and nays on this report.

The yeas and nays were ordered.

Mr. COX, of New York. We cannot tell from the report what we are to vote on.

[Cries of "Regular order!"] Mr. COX, of New York. I want to know what is the aggregate of the appropriations now in this bill?

Mr. REAGAN. As I have already stated, about \$8,361,000.

Mr. EDEN. I wish to inquire whether it is in order under the rules to vote away \$8,300,000 without one word of debate.

[Cries of "Order!" "Order!"]

Mr. SAYLER. The gentleman from Illinois is making a speech under pretense of raising a point of order.

Mr. COX, of New York. Mr. Speaker— [Cries of "Regular order!"]

The SPEAKER *pro tempore*. The gentleman from Texas demands the previous question.

The previous question was seconded.

Mr. COX, of New York. I rise to a parliamentary question. Is there any way in which we can postpone this bill?

The SPEAKER *pro tempore*. The Chair knows no way in which it can be done.

Mr. KENNA. The gentleman himself knows there is none.

The main question was ordered, there being—ayes 116, noes 41.

Mr. COX, of New York. Would it be in order to move to reconsider the vote by which the main question was ordered?

The SPEAKER *pro tempore*. It would be.

Mr. COX, of New York. I make that motion.

Mr. SAYLER. I move to lay the motion on the table.

Mr. COX, of New York. I am on the floor.

The SPEAKER *pro tempore*. The gentleman from New York moves to reconsider the vote by which the main question was ordered.

Mr. REAGAN. The gentleman did not vote in the affirmative.

The SPEAKER *pro tempore*. As there was no record of the vote everybody is presumed to have voted in the affirmative.

Mr. SAYLER. I have moved to lay the motion to reconsider on the table.

The SPEAKER *pro tempore*. Does the gentleman from New York [Mr. Cox] yield for that motion?

Mr. COX, of New York. No, sir; I do not.

Mr. SAYLER. I have the right to make the motion.

The SPEAKER *pro tempore*. Not while the gentleman from New York is on the floor.

Mr. SAYLER. He is not on the floor.

The SPEAKER *pro tempore*. The gentleman from New York made a motion to reconsider the vote by which the main question was ordered, and while he was standing on the floor and while the Chair was stating the question, the gentleman from Ohio moved to lay that motion on the table.

Mr. SAYLER. Certainly I had the right to do so.  
 Mr. COX, of New York. I had not yielded the floor.  
 Mr. SAYLER. The motion to reconsider the vote by which the main question was ordered is not debatable. The gentleman could not debate it, and could not hold the floor for any other purpose.  
 Mr. GARFIELD. The motion to reconsider the vote ordering the main question is not debatable, because the original motion was not debatable.

The SPEAKER *pro tempore*. That is what the Chair was about to state.

Mr. REAGAN. As soon as the motion was made by the gentleman from New York to reconsider I moved to lay that motion on the table.

The SPEAKER *pro tempore*. The Chair will give his decision if the gentleman will suspend for a moment. On reflection, the Chair recollects that the original motion is not debatable, and the gentleman from New York could not debate the motion to reconsider. The gentleman from Ohio [Mr. SAYLER] is therefore entitled to the floor to move to lay upon the table.

Mr. COX, of New York. Then I have not the right to say a word on the question. [Cries of "Order!"]

Mr. SAYLER. Not a particle of right.  
 Mr. COX, of New York. I appeal from the decision of the Chair, and wish to be heard for a moment.

Mr. KENNA. I move to lay the appeal upon the table. The subject is not debatable.

The SPEAKER *pro tempore*. It is not debatable.

Mr. COX, of New York. Is there a motion I could make which would be debatable. [Laughter.] [Cries of "Order!" "Order!"] I desire to understand the Chair.

Mr. KENNA. I demand the regular order of business. The gentleman has no right to debate the motion to lay upon the table.

The SPEAKER *pro tempore*. The regular order is a motion to lay upon the table the appeal from the decision of the Chair.

Mr. COX, of New York. There is no way of debating this extravagant appropriation. [Cries of "Order!"]

Mr. KENNA. I demand a vote on my motion to lay the appeal upon the table.

The motion was agreed to; and the appeal was laid on the table. The question recurred on the motion to lay on the table the motion to reconsider the vote by which the main question was ordered.

The motion was agreed to.  
 The question next recurred on the adoption of the report of the committee of conference.

The SPEAKER *pro tempore*. The yeas and nays have been ordered.

Mr. BUTLER. Will the Chair now state the question?

The SPEAKER *pro tempore*. The question is on the adoption of the report of the committee of conference on the river and harbor appropriation bill, on which the yeas and nays have been ordered.

The question was taken; and it was decided in the affirmative—yeas 150, nays 99, not voting 42; as follows:

YEAS—150.

Acklen,	Davis, Joseph J.	Hubbell,	Sapp,
Aiken,	Dean,	Humphrey,	Sayler,
Atkins,	Deering,	Hunter,	Schleicher,
Baker, William H.	Dibrell,	Itner,	Shallenberger,
Banning,	Dunnell,	Jones, James T.	Shelley,
Bell,	Dwight,	Jorgensen,	Singleton,
Bicknell,	Eames,	Keightley,	Sinnickson,
Bisbee,	Elam,	Kelley,	Smalls,
Bliss,	Ellis,	Kenna,	Smith, A. Herr.
Bouck,	Ellsworth,	Kimmel,	Smith, William E.
Boyd,	Evans, I. Newton	Landers,	Steele,
Brentano,	Evins, John H.	Ligon,	Stewart,
Bridges,	Ewing,	Lockwood,	Stone, John W.
Brogden,	Felton,	Marsh,	Stone, Joseph C.
Bundy,	Forney,	McKinley,	Strait,
Burchard,	Foster,	Metcalfe,	Throckmorton,
Burdick,	Franklin,	Mills,	Townsend, Amos
Butler,	Garfield,	Monroe,	Vance,
Cain,	Garth,	Muldrow,	Waddell,
Calkins,	Gause,	Oliver,	Wait,
Caswell,	Gibson,	O'Neill,	Walker,
Chalmers,	Giddings,	Page,	Ward,
Clafin,	Goode,	Patterson, T. M.	Watson,
Clark, Alvah A.	Hardenbergh,	Phelps,	Welch,
Clark of Missouri,	Harmer,	Phillips,	White, Harry
Clark, Rush	Harris, Henry R.	Pollard,	White, Michael D.
Cole,	Hart,	Pound,	Williams, A. S.
Conger,	Hartridge,	Price,	Williams, Andrew
Cook,	Hartzell,	Rainey,	Williams, C. G.
Covert,	Haskell,	Rea,	Williams, Richard
Cox, Jacob D.	Hatcher,	Reagan,	Willis, Benj. A.
Crapo,	Hayes,	Riddle,	Wilson,
Cravens,	Hendee,	Robbins,	Wood,
Crittenden,	Henderson,	Roberts,	Wren,
Culberson,	Henry,	Robertson,	Yeates,
Cummings,	Herbert,	Ross,	Young.
Cutler,	Howitt, G. W.	Ryan,	
Davidson,	House,	Sampson,	

NAYS—99.

Aldrich,	Bragg,	Cannon,	Davis, Horace
Bacon,	Brewer,	Carlisle,	Dickey,
Bakley,	Briggs,	Chittenden,	Douglas,
Baker, John H.	Browne,	Clarke of Kentucky,	Durham,
Beebe,	Cabell,	Clymer,	Eden,
Blackburn,	Caldwell, J. W.	Cobb,	Eickhoff,
Blair,	Caldwell, W. P.	Collins,	Errett,
Blount,	Campbell,	Cox, Samuel S.	Evans, James L.
Boone,	Candler,	Danford,	Finley,

Frye,	Keifer,	Neal,	Starin,
Fuller,	Ketcham,	Overton,	Stenger,
Gardner,	Killinger,	Patterson, G. W.	Thompson,
Hale,	Knott,	Peddie,	Townsend, M. I.
Hamilton,	Lapham,	Potter,	Townsend, R. W.
Hanna,	Lathrop,	Powers,	Tucker,
Harris, Benj. W.	Lindsey,	Randolph,	Turner,
Harris, John T.	Maish,	Reed,	Turney,
Hewitt, Abram S.	Mayham,	Reilly,	Vceder,
Hiscock,	McCook,	Rice, Americus V.	Warner,
Hooker,	McKenzie,	Rice, William W.	Whitthorne,
Hunton,	McMahon,	Robinson, G. D.	Wigginton,
Hungerford,	Mitchell,	Scales,	Williams, James
Jones, Frank	Morgan,	Sexton,	Willis, Albert S.
Jones, John S.	Morrison,	Southard,	Willits.
Joyce,	Morse,	Sparks,	

NOT VOTING—42.

Ballou,	Glover,	Manning,	Springer,
Banks,	Gunter,	Martin,	Stephens,
Bayne,	Harrison,	McGowan,	Swann,
Benedict,	Hazelton,	Money,	Thornburgh,
Bland,	Henkle,	Muller,	Tipton,
Bright,	James,	Norcross,	Van Vorhes,
Buckner,	Knapp,	Pridemore,	Walsh,
Camp,	Loring,	Pugh,	Williams, Jere N.
Denison,	Luttrell,	Quinn,	Wright.
Fort,	Lynde,	Robinson, M. S.	
Freeman,	Mackey,	Semons,	

So the conference report was adopted.

During the vote,  
 Mr. LIGON said: My colleague, Mr. WILLIAMS, is absent by leave of the House.

Mr. LYNDE. I am paired with Mr. LORING. If he were present, I would vote "no."

Mr. CRITTENDEN. My colleague, Mr. BLAND, is absent by reason of sickness.

Mr. BENEDICT. I am paired with my colleague, Mr. CAMP. If he were present, I would vote "no."

Mr. PUGH. I am paired with Mr. MARTIN. If he were present, he would vote in the affirmative and I would vote in the negative.

Mr. MCGOWAN. I am paired with the gentleman from Arkansas, Mr. GUNTER. If he were here, I would vote "ay."

Mr. FORT. I am paired with Mr. MANNING, of Mississippi.

Mr. CRAVENS. My colleague, Mr. GUNTER, is paired with Mr. MCGOWAN and Mr. SLEMONS is paired with Mr. FREEMAN.

The vote was then announced as above recorded.

INTERNAL REVENUE.

The SPEAKER *pro tempore*. The House resumes, as in the Committee of the Whole, the consideration of the bill (H. R. No. 4414) in relation to internal revenue.

Mr. TUCKER. I demand the previous question on the amendment of the gentleman from Illinois, [Mr. TOWNSHEND.]

Mr. KNOTT. I ask the gentleman from Virginia to withdraw his demand for the previous question in order that I may make a remark or two, and then I will renew it.

Mr. TUCKER. How long?  
 Mr. KNOTT. Five minutes.

The SPEAKER *pro tempore*. The Chair will state that five minutes have already been occupied by the gentleman from Illinois in support of this amendment.

Mr. KNOTT. I move to strike out the last word.

The SPEAKER *pro tempore*. That motion has not been made.

Mr. KNOTT. I ask the gentleman from Virginia to withdraw his demand for the previous question, so I may have five minutes. I have not trespassed much on the time of the House.

Mr. TUCKER. The gentleman from Kentucky will see the importance of getting on with this bill. I will yield him two minutes.

Mr. KNOTT. I shall not accept that.

The question being put, the previous question was not ordered.

The SPEAKER *pro tempore*. The gentleman from Kentucky [Mr. KNOTT] is entitled to the floor to offer an amendment.

Mr. KNOTT. I move to strike out the last word.

Mr. SAYLER. I ask that the amendment of the gentleman from Illinois [Mr. TOWNSHEND] be again read. I do not think that anybody knows what it means.

The SPEAKER *pro tempore*. The Chair has caused it to be read twice. If there is no objection, he will direct it to be read again.

There was no objection, and the amendment was again read.

Mr. SAYLER. You may as well give up your tobacco revenue.

Mr. MCKENZIE. I desire to offer an amendment.

The SPEAKER *pro tempore*. There is an amendment to the amendment already pending. The gentleman from Kentucky [Mr. KNOTT] has the floor.

Mr. KNOTT. The discussions to which I have had the pleasure of listening on this floor for the last seven months have convinced me that if there is anything on this earth that the average member of Congress loves better than he does the apple of his eye it is the horny-handed laborer. The miser may gaze with rapture upon his hoards of shining metal; the young mother may feel the warm, rich floods of maternal affection welling up from her heart as she catches the first smile of her eldest born; the young and buoyant bridegroom may feel every fiber of his being tingle with mingled emotions of tenderness as he looks upon the gentle being whose trembling hand he holds in his before the marriage-altar; but all such sentiments as

those dwindle into utter insignificance as compared with the profound and deathless affection which the average member of Congress feels for the laboring-man. [Laughter.]

Sensible of this, sir, early in this session I offered a bill in precisely the language of the amendment proposed by the gentleman from Illinois, in order that this House might have an opportunity of doing something practical for the benefit of laboring-men. As the law now stands the producer of leaf-tobacco cannot sell a pound of it except to a licensed dealer. In my district there are a number of very poor producers, mostly colored, who raise from one hundred and fifty to two hundred and fifty pounds per annum, yet if one of them takes a few pounds of it to town on a Saturday to exchange for a pound or two of tea or a few pounds of coffee or sugar, or a few yards of calico for a dress for his wife or daughter, he is collared by the United States marshal, marched off to the Federal court, mulcted in a heavy penalty, and put in jail for it.

Representatives of the people, you who desire to do something for those who produce our wealth have now an opportunity, if you see proper to remove this onerous and iniquitous burden from that class of your fellow-citizens for whose welfare so much solicitude is generally expressed and so little really done, by voting for this amendment.

Mr. SAYLER. Will the gentleman from Kentucky allow me to ask if he thinks that his laboring constituents should be exempted from the duty which everybody else is required to perform, that of paying the revenues required by the Government? I further ask if his proposition would not simply take away all possibility of deriving revenue from the growing of tobacco?

Mr. KNOTT. No, sir.

Mr. SAYLER. I am in favor of reducing the tax on tobacco, but not of allowing tobacco to cease to be a source of revenue.

Mr. BRIGHT. This very law is destroying the production of the small farmer and increasing the monopoly in the hands of a few.

Mr. SAYLER. I would like to be a small farmer myself if I could raise this product without having to pay any tax on it.

Mr. BRIGHT. The poor man does not receive any benefit from it.

Mr. SAYLER. There is a great deal of humbug in this talk about the poor man and the small farmer.

Mr. BRIGHT. There is a great deal of oppression by the monopolists. When the poor man comes before us asking for relief, he is generally crushed like a worm under foot. When the bondholder and monopolist appear to ask a favor, Congress is all complaisance.

Mr. WRIGHT. I would like to know how many demagogues there are in the House now? [Laughter.]

Mr. HARRIS, of Virginia. I hope the amendment will be adopted. As I have no time to discuss it, I desire to say that I indorse every word said by the gentleman from Kentucky [Mr. KNOTT] in regard to the unjust working of the present law; and I am willing to stand here all summer to repeal or modify it.

Mr. KNOTT. I withdraw the *pro forma* amendment.

Mr. MCKENZIE. I offer the amendment which I send to the desk. The Clerk read as follows:

Amend the sixth clause of section 3244 by adding thereto as follows: *Provided*, That the growers of tobacco be, and they are hereby, authorized to sell to consumers tobacco of their own growth or raising one thousand dollars' worth annually without having first to obtain a license so to do, as now required by law.

Mr. MCKENZIE. I simply desire to say that if I represented a constituency of tobacco buyers alone, instead of a constituency of tobacco producers, I should not have offered that amendment. I have offered it in the interest of the toiling producers, who are certainly entitled to as many favors at the hands of this House as the buyers and manufacturers of tobacco.

Mr. SAYLER. If the gentleman had felt that he was representing the interests of the revenues of the United States he would not have offered that amendment.

The question was taken on the amendment offered by Mr. MCKENZIE as a substitute for the amendment of Mr. TOWNSHEND, of Illinois, and it was not agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed the following resolution; in which he was directed to ask the concurrence of the House:

*Resolved*, (the House concurring,) That the time fixed by the two Houses of Congress for the final adjournment of the second session of the Forty-fifth Congress is hereby extended to twelve o'clock meridian on Thursday, the 20th day of June current, and at that time the President of the Senate and the Speaker of the House of Representatives shall adjourn their respective Houses without day.

The message further announced that the Secretary be directed to request the House of Representatives to return to the Senate the bill (H. R. No. 5137) to legalize the collection of head-moneys already paid.

The message further announced that the Secretary be directed to notify the House of Representatives that a motion is being considered in the Senate to rescind the resolution requesting the return to the Senate of the bill "No. 1088, to provide for the revision and correction of assessments for special improvements in the District of Columbia, and for other purposes," and until further notice the Senate does not request the return of said bill.

#### ORDER OF BUSINESS.

Mr. WADDELL. I rise to a privileged motion. For the first time

since my service here the Senate of the United States has respectfully asked for a conference committee and twenty-four hours have passed and it has not been appointed. I rose to make the motion yesterday, and the Speaker refused to put it to the House, and said he would recognize another gentleman. We are reminded by the message just received that there is such a body as the Senate of the United States.

The SPEAKER *pro tempore*. The Chair will permit the regular Speaker of the House to dispose of that question.

The SPEAKER, (resuming the chair.) The Chair desires to state that he notified the gentleman from Illinois [Mr. CANNON] that he would be recognized immediately after the internal-revenue bill was disposed of.

The Speaker *pro tempore* resumed the chair.

Mr. WADDELL. I rise to a privileged motion, and ask the House to accede to the request of the Senate for a committee of conference upon the post-route bill.

The SPEAKER *pro tempore*. The present occupant of the chair cannot entertain that motion.

#### INTERNAL-REVENUE BILL.

Mr. PRIDEMORE. I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

And no producer of tobacco shall be held liable for any tax upon leaf-tobacco paid for work or labor done upon his farm.

Mr. PRIDEMORE. I will detain the House but a moment. I desire to say that I do not care what may be said by the gentleman from Ohio [Mr. SAYLER] against the laboring classes—

Mr. SAYLER. I have said nothing against the laboring classes.

Mr. PRIDEMORE. Then I misunderstood you.

Mr. SAYLER. I said nothing whatever against them.

Mr. PRIDEMORE. The RECORD will show that; but I say that I do not hesitate to stand here and advocate the rights of men who have heretofore received but very little attention at the hands of this Congress. The men who produce tobacco and the men who labor for the producers are deprived, by your laws, from the interchange of an article which is necessary almost to the laborers who produce the large amount of tobacco that goes to the market, and it does seem to me that it is time that this Congress, which has time and again professed a warm feeling for the workingmen, for those who are so unfortunate as to have to labor, should certainly be willing to extend to that class the privilege of chewing leaf-tobacco without paying a tax upon that which is produced by their own labor on the farm of him for whom they labor. I hope, therefore, that it will be the pleasure of the House to grant this privilege to them. It cannot affect the revenue, and it will be a great advantage to the laborers and to the farmers and will therefore add to the revenue. In this, I am aware, the producer's interest differs from the dealer's and manufacturer's, but the latter class has long held the advantage, and I do hope justice may now be done. If, however, the producers are to bear all this burden it is hoped they will cease to produce the article that bleeds them to fatten others. They will, I trust, force from their representatives an open stand upon the clash of interests between farmer and dealer.

Mr. SAYLER. I represent more laborers than the gentleman does, more men who work in connection with tobacco than the gentleman does, and I recognize perfectly the fact that all taxes are an oppression upon the people; but what I am contending for is that we shall diminish the amount of taxes, and thereby give more lucrative employment to thousands of men who are laboring upon this product and collect the tax honestly. Now, the gentleman's proposition would entirely deprive the Government of the revenue from tobacco. I represent thousands of men who are engaged in the manufacture of tobacco.

Mr. PRIDEMORE. Do you represent a solitary farmer?

Mr. SAYLER. Yes; I represent more than one solitary farmer, though most of them I represent are not solitary. I represent men that raise tobacco, and I represent also the Government of the United States and its revenues. I stand here in the interest of a fair and honest collection of the revenues of the Government. [Applause.]

Mr. BURCHARD. I demand the previous question upon the pending amendment, and, when it has been disposed of, other amendments will be in order.

The SPEAKER *pro tempore*. Does the gentleman demand the previous question upon the paragraph?

Mr. BURCHARD. I do not, because there is an amendment which I think ought to be adopted.

Mr. ATKINS. Will the previous question cut off the amendment of the gentleman from Virginia, [Mr. PRIDEMORE?]

The SPEAKER *pro tempore*. No; not the amendment now pending.

Mr. BURCHARD. I desire to say that the pending amendments are opposed by the committee.

Mr. VANCE. Can I not offer a substitute for the amendment?

The SPEAKER *pro tempore*. The Chair has ruled that amendments beyond the second degree are not in order.

Mr. VANCE. Is not a substitute in order?

The SPEAKER *pro tempore*. Not pending a demand for the previous question.

Mr. SAYLER. If the previous question be not sustained then the gentleman can offer a substitute.

The previous question was seconded and the main question ordered. The question was taken upon Mr. PRIDEMORE'S amendment; and it was not agreed to.

The question recurred upon the amendment offered by Mr. TOWNSEND, of Illinois; and being put, there were ayes 48, noes not counted. So the amendment was not agreed to.

Mr. TUCKER. I offer the resolution which I send to the Clerk's desk.

The Clerk read as follows:

*Resolved*, That all debate on each one of the remaining sections of this bill and amendments thereto be limited to one minute.

Mr. CONGER. I raise the point of order that that cannot be done.

Mr. SAYLER. It can be done by a suspension of the rules.

Mr. CONGER. It cannot be done in advance of the reading of the paragraph.

Mr. TUCKER. I move to suspend the rules and adopt the resolution which I have offered.

Mr. CONGER. Allow me to make one remark to the gentleman.

The SPEAKER *pro tempore*. This question is not debatable.

Mr. CONGER. I do not want to debate it. The gentleman assured members of this House that among the first things that should be done was an effort to reconsider the amendment which was adopted to a previous clause of this bill by which the transfer of suits from State courts to United States courts was prohibited. If the gentleman is acting in good faith let that be done, or else we must resort to our parliamentary remedies.

Mr. SAYLER. That proposition was made in good faith and will be carried out.

Mr. CONGER. Let it be done now.

Mr. TUCKER. When the gentleman from Michigan [Mr. CONGER] speaks of my acting in good faith he says that which would seem to intimate an imputation that I would not do so. The thing which I said should be done will be done as soon as this matter is disposed of.

The SPEAKER *pro tempore*. Perhaps the gentleman from Virginia [Mr. TUCKER] had better yield now to the gentleman from Missouri [Mr. COLE] who has a proposition to offer.

Mr. TUCKER. I will yield to the gentleman; but before he goes on I desire to say to my friends on this side and to all the friends of the bill that I trust unanimous consent will be given to the gentleman from Missouri [Mr. COLE] to offer the amendment which he desires to propose.

Mr. COLE. I ask unanimous consent to offer the amendment which I send to the Clerk's desk.

Mr. BEEBE. Let it be read

The SPEAKER *pro tempore*. It will be read, after which objections will be in order.

The amendment was read, as follows:

Return to the ninth section and strike out the words inserted by the amendment of Mr. VANCE, of North Carolina.

The SPEAKER *pro tempore*. Is there objection to that amendment?

Mr. CALDWELL, of Tennessee. I object.

Mr. SAYLER. Then I move to suspend the rules and agree to the amendment.

The SPEAKER. The Clerk will report that portion of the bill which the amendment of the gentleman from Missouri [Mr. COLE] proposes to strike out.

The Clerk reported section 9 as amended:

Where any marshal or deputy marshal of the United States within the district for which he shall be appointed shall find any person or persons in the act of operating an illicit distillery, it shall be lawful for such marshal or deputy marshal to arrest such person or persons and take him or them forthwith before the most convenient judicial officer named in section 1014 of the Revised Statutes, who may reside in the county of arrest, or, if none, in that nearest to the place of arrest, to be dealt with according to the provisions of sections 1014, 1015, and 1016 of said Revised Statutes.

The following is the proviso added to the section on motion of Mr. VANCE:

*Provided*, That wherever any internal-revenue officer or agent in the execution of the internal-revenue laws is indicted for any criminal offense in any State court having jurisdiction of the case, the indictment or presentment shall not be removed to any district or circuit court of the United States under the provisions of section 643 of the Revised Statutes of the United States.

The SPEAKER *pro tempore*. The gentleman from Ohio [Mr. SAYLER] moves to suspend the rules and agree to an amendment striking out the proviso just read by the Clerk.

Mr. ROBBINS. It is only to strike out the proviso?

The SPEAKER *pro tempore*. To strike out the proviso only.

Mr. VANCE. I want to raise the point of order that this section has been acted upon and passed.

Mr. SAYLER. And I move to suspend the rules so as to return to the section and adopt the amendment offered by the gentleman from Missouri, [Mr. COLE.]

Mr. RANDOLPH. I rise to make a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. RANDOLPH. I wish to know if the amendment seeks to strike out the entire section or only the proviso.

The SPEAKER *pro tempore*. Simply the proviso.

Mr. VANCE. As I offered the proviso which it is proposed to strike

out, I ask unanimous consent to make a statement which I think ought not to be denied me.

The SPEAKER *pro tempore*. For how long?

Mr. VANCE. Not exceeding five minutes.

Mr. CONGER. If there can be five minutes to reply I will not object.

Mr. SAYLER. We do not want any discussion.

Mr. BURDICK. I object.

Mr. VANCE. I think it is ungenerous to deny that to me.

The SPEAKER *pro tempore*. The gentleman can ask leave to print his remarks in the RECORD.

Mr. VANCE. I will do so; and I will say also that I hope God will let me live to be heard on this floor in behalf of the suffering people.

Mr. SAYLER. I insist upon the regular order.

The SPEAKER *pro tempore*. Is there objection to giving the gentleman from North Carolina [Mr. VANCE] leave to have printed in the RECORD remarks upon this subject?

There was no objection, and leave was granted accordingly.

The following are the remarks of Mr. VANCE:

Mr. Speaker, for two Congresses I have endeavored to change the statute which authorizes the removal of causes from State to Federal courts. As I have before stated to the House, the people have suffered much from this cause. It is clear that there is no authority vested in the Federal courts to try homicides; hence such trials are a mockery of justice. The people demand at the hands of Congress a repeal of this unjust and vicious statute. The internal-revenue bill, reported by Mr. BURCHARD, was the proper bill to put an amendment on to repeal said law.

In a fair ay and no vote in the House the repeal was agreed to. The next day Mr. BURCHARD moved to strike out section 9 of the bill containing my amendment. I agreed that my amendment should be so modified as to apply only to criminal causes, and Mr. RIDDLE, of Tennessee, with my consent, offered a modification as suggested. The section passed as amended. Subsequently an amendment was put on the bill to reduce the tax on tobacco to sixteen cents per pound. Since then I have been frequently called on by a portion of the Virginia delegation, including especially Mr. TUCKER, to allow a motion to strike out my amendment. My colleagues and many eminent members from the South and some from the North advised me to so agree. I finally agreed, upon the positive assurance that the republicans would filibuster and prevent the bill from passing this session in any shape, to let the House take another vote, and if it was voted down the blame would not rest on me.

Now, Mr. Speaker, I desire to say that, in my judgment, this trouble has come upon my amendment from two causes. First, the delay in bringing on a vote on the bill to reduce the tax on tobacco, a delay which has nearly ruined the country. With the majority in its favor it should have been passed months since. In this I am entirely free from blame, as I have been constantly anxious to reduce the tax by the passage of the bill. Second, the House committed a serious mistake in fixing on 17th June to adjourn when so much remained to be done, tying its own hands and leaving it unable to afford relief to a suffering country. I have therefore agreed that the House might vote again on this amendment, because I am assured that we will get nothing this session in the interest of the people in reducing the tax on tobacco unless it is voted out.

If it is now voted out I shall renew the fight again with all the ability I may possess. To show the feeling in the country on this subject, I make the following extract from the Charlotte Observer:

#### A PRIVILEGED CLASS.

"In a republican government," says the Charleston News and Courier, "that any set of men should have any legal rights or any exemptions from the operations of law not accorded to each and every citizen of the country is an anomaly. It is contrary to the theory, inconsistent with the practice, and subversive of the spirit of true republicanism. If such privileged class, by inheritance, birth, breeding, education, refinement, and culture, exercise an elevating influence on the mass of the community, and are restrained by their own disposition and their own sense of right and justice from trespassing on the rights of others, the inherent evil of this exception from general laws, which consists in its liability to abuse, escapes notice, and the privileged class make friends and gain influence in the country which enables them to maintain their special rights and immunities. If, on the other hand, the privileged class consists of ignorant, rudo, and unthinking men, who take delight in the use of their privileges to the annoyance and distress of all around them, then the heinousness of the evil is apparent and the good sense of the country is offended, and the indignation of the people is aroused against the few who benefit at the expense of the many."

This evil exists in its most aggravated form in the United States, in this Government that claims to be the model republic, the best government the world ever saw. The privileged class is that of revenue officers, made so by section 643 of the Revised Statutes of the United States, which exempts them from the jurisdiction of the State courts. These men everywhere are those who are willing to become spies and informers, and in the South, since the war, they have been, for the most part, political adventurers of the lowest grade from other States, or natives who have lost the respect of the communities in which they live. These men, secure of never being tried except by those in thorough accord with them, have not hesitated to rob, to murder, and even to ravish, to say nothing of the insults, brutalities, and thousands of minor outrages of which they have been guilty. From Virginia to Texas, for years, the cries of a helpless people have gone up against the oppressions of these petty tyrants. The South, however, is powerless no longer, and her representatives in the National Congress are even now proceeding to strip these revenue raiders of their much-abused privileges.

Section 9 of the revenue bill now before Congress relates to the right of revenue officers to arrest illicit distillers and carry them before a judicial officer for an investigation of the charges against them. Mr. VANCE, of North Carolina, took the opportunity to offer an amendment repealing so much of section 643 of the Revised Statutes as refers to the transfer of civil and criminal suits from State to United States courts, and after much debate it was adopted. This was found, however,

to be going too far, as all that was wanted was to prevent these officers from committing offenses against State laws and then transferring their cases, on their own affidavit, to the United States courts, while Mr. VANCE's amendment prevented also the transfer of civil suits. Mr. BURCHARD, of Illinois, then endeavored, by offering a substitute for the ninth section as amended, which was virtually the original section without the amendment, to defeat entirely the object Mr. VANCE had in view. This, however, met with strong opposition. Mr. MILLS, of Texas, said that such a law authorized Federal officers to shoot down citizens with impunity; that many citizens had already lost their lives and many were constantly losing their property on account of the oppressions of these Federal officers; and that to keep such a law upon the statute-book was only offering a reward for the perpetration of crime. Mr. RIDDLE, of Tennessee, offered an amendment to the substitute, which, as adopted and modified, reads as follows, and will answer the purpose intended by the amendment of Mr. VANCE:

"That whenever a criminal offense has been committed by any internal-revenue officer or agent in the execution of the internal-revenue laws, and such officer or agent is afterward indicted for such offense in any State court having jurisdiction of the case, it shall not be removed to any district or circuit court of the United States under the provisions of section 643 of the Revised Statutes of the United States."

This amendment formed part of the revenue bill as it went to the Senate, and it is said that the Senate will erase it before passing the bill. If it does the House should insist on its amendment, for it is the only immediate remedy for the most crying evil under which the country now suffers. No privileged class in any monarchy is so obnoxious to the public welfare as is this class of revenue officers in this republican country. The immunity of any offender from trial in the courts of the State whose laws he has offended is an insult to the State, an injury to the people, and an incentive to the commission of crime by those to whom the privilege is extended.

The question was taken upon the motion of Mr. SAYLER to suspend the rules and agree to the amendment moved by Mr. COLE; and (two-thirds voting in favor thereof) the rules were suspended and the amendment agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed, without amendment, a bill of the House of the following title:

A bill (H. R. No. 3565) granting a pension to Dr. P. F. Reuss, late surgeon Seventh New York Volunteers.

The message also announced that the Senate had passed and requested the concurrence of the House in bills of the following titles:

A bill (S. No. 1026) granting a pension to Ben Alsop;

A bill (S. No. 1284) creating the Utah and Northern Railway Company a corporation in the Territories of Utah, Idaho, and Montana, and granting the right of way to said company through the public lands; and

A bill (S. No. 1337) creating a board to be known as the Pacific Railroad commission.

#### INTERNAL-REVENUE BILL.

The House resumed the consideration, as in Committee of the Whole, of the bill (H. R. No. 4414) to amend the laws relating to internal revenue.

The SPEAKER *pro tempore*. The gentleman from Virginia [Mr. TUCKER] now renews his motion to suspend the rules and adopt a resolution restricting debate.

Mr. BURCHARD. I ask the gentleman to modify his proposition so that one minute's debate may be allowed in favor and one against. Sometimes it may be necessary to say a word in reply.

The SPEAKER *pro tempore*. Does the gentleman from Virginia modify his proposition?

Mr. TUCKER. No, sir; I think I will adhere to it as I have offered it.

The resolution of Mr. TUCKER was agreed to, two-thirds voting in favor thereof.

Mr. BURCHARD obtained the floor and said: I yield to the gentleman from Maine [Mr. POWERS] that he may offer an amendment which is acceptable to the committee reporting the bill.

Mr. POWERS. I move to amend as follows:

Add to the eighth subdivision of said section 3244 the following:

But no lumberman, planter, or farmer shall be required to pay any tax as a dealer in tobacco, for selling or furnishing tobacco to any persons or laborers while actually employed by him in his business as a lumberman, planter, or farmer, and to none others.

Mr. AIKEN. Mr. Speaker, since the House has had the internal revenue bill under consideration more than one member has intimated in his remarks that there were sections of the Union in which the people seemed to consider these revenue laws so inimical to their interests, that they assumed it a privilege, if not a duty, to resist their enforcement. Of course these insinuations were so many indirect assertions that there still lingered a disloyal sentiment among the States of the South, which pervaded the popular masses.

Sir, no impression could be more erroneous. Perhaps the constituency of no member upon this floor has been more frequently accused, yes, and punished, too, for infractions of these laws than those whom I have the honor to represent, and yet I assert boldly that no section of the country is populated by a more law-abiding loyal constituency than my own district.

But, sir, they are loyal to the Government—both State and national—and not to the republican party or those hirelings who obey the behests of its minions. I am satisfied that if the Administration could see those creatures who execute the revenue laws in South Carolina as we see them, they would repudiate them at first sight. They are not worthy of affiliation even with the republican party. Who they are or where they came from few men seem to know or care. Suffice it to say they are men of no character and destitute of every

instinct of an honest heart. And yet such men are invariably chosen by the appointees of the President to execute these nefarious laws among a people upon whom they have been colonized. Remote from the appointing power and amenable to men higher in authority but of little more character than themselves, and aware of the fact that our revenue laws are ambiguous, at least in the letter, they throw aside every legal restraint and become a law unto themselves, oftentimes assaulting, robbing, and murdering their oppressed victims with impunity.

Gentlemen say there is no necessity for the resolution offered by the member from Maine, [Mr. POWERS,] because it simply reasserts what is the law. If what the resolution proposes is existing law, it is not that law which is executed by the subalterns of the revenue department. Only two days ago I received the following letter from a farmer friend of character and integrity in South Carolina:

Mr. Brayton, the collector of internal revenue for this State, has recently decided that it was a violation of the revenue laws for planters to keep tobacco for their hands, selling it to them without profit, to be paid for in the fall out of their share of the crops. As this is a very important matter to planters and their employes, I thought it best to write you upon the subject.

This is the second time such a report has come from South Carolina to me, and when I first made inquiry about it I was told that the Commissioner of Internal Revenue has ruled that a farmer who buys a box of tobacco upon which the tax has been paid can without violating law sell it to his employes. I have seen a ruling to this effect in manuscript from the Treasury Department; but, sir, I would ask what is this official ruling worth if those to whom it is issued can and do violate it almost every day with impunity?

When I read the letter of the law I am somewhat inclined to forgive these officials for their abuse of authority, for there is an ambiguity about it that should not be allowed to exist. There should be no law upon our statute-books which concerns the general public in their daily avocations that has sufficient lack of clearness about it to prevent a proper construction by the humblest citizen. I hold in my hand a pamphlet procured from the Treasury Department entitled Revised Regulations, concerning Taxes on Tobacco, Snuff, and Cigars, and on page 5 I find this paragraph:

Farmers and planters for selling tobacco of their own production, or tobacco received by them as rent from tenants who have produced the same on their lands, are not required to pay special tax as dealers in leaf-tobacco.

And yet, sir, the very next paragraph says:

If, however, the farmer or planter shall sell directly to consumers, he becomes liable, as a retail dealer in leaf-tobacco, to the special tax of \$500.

And it is upon the construction of this latter clause that these devils in human form presume to impose upon the ingenuous farmer, who, remote from any manufacturing establishment, frequently depends upon the leaf-tobacco grown upon his own land as a commodity with which to supply the wants of his employes.

Sir, if the law exists to-day allowing farmers and planters to sell to their employes manufactured tobacco which they had purchased, and upon which the tax had been paid, or leaf-tobacco of their own raising, why does not the Commissioner so instruct his collectors? It is evident from the letter I have read he has not so instructed the collector in South Carolina, and he may construe here in Washington till doomsday without exacting obedience from them unless he issues his orders directly to them, which he does not do, but awaits for the individual aggrieved citizen to appeal for a construction, and oftentimes red-tapeism prevents his complaints ever being heard.

Mr. Speaker, our revenue laws may be all that this Congress desires them to be, but unless they can be more honestly administered and humanely executed, they will be a source of trouble for all time to come. I have characterized the men who execute them in my district as outlaws. Sir, they are worse; they are a band of thieves and murderers.

The editorial fraternity of South Carolina are a body of as honest, intelligent, truth-loving citizens as can be found in the United States. Latterly, scarcely a paper received from that State but that narrates some desperate act committed by these men, not in accordance with law, but in defiance of law. Only as late as the 9th of the present month four of these revenue officials went to the house of a widow lady living in a mountainous section of the district I have the honor to represent, and brutally murdered her son, a young man of twenty years of age.

I take the following extract from the newspaper published at the county seat of the county in which this deed was committed:

It appears that the young man was standing, or rather leaning, against the door-facings when the revenue officers rode up, or walked up, (we believe they were walking,) and deliberately shot him dead on the spot, without a moment's warning or an intimation of their designs. The young man fell out of the door lifeless, when the officials said to his brother, "Who have we shot?" The reply was, "You have shot my brother." The officers then turned and left the house, but concealed themselves on a small hill near the house in the brush, and remained there for some time, for what purpose is not known. They then went to the store of Mr. King, some four miles off, where they endeavored to hire a conveyance to Easley Station. Mr. King told them that he could not carry them that evening, but if they would wait until morning he would carry them. They said they could not do so, as they had business of importance to attend to and must go that night. They then hired one mule from him, and Kane rode rapidly for the station, passing through this place by a back way about dusk, and arriving at Easley just in time to take the nine o'clock train going North. He gave a negro ten cents to carry the mule to the livery-stable, with instructions to send it back to Mr. Bayliss Hendricks, at this place, where the officials had told Mr. King they desired the mule to ride to.

It appears that two shots were fired at Ladd, the first taking effect and killing him, while the second missed. From this fact, and the fact that Kane rode off Mr.

King's mule and left immediately on the train, it is supposed he did the killing. The other three went across the country toward Greenville on foot, and at this writing we know not where they are.

It will be seen that the man who most probably did the shooting took the first train "going North," and no doubt to-day is here, assuring the Department of the impossibility of enforcing compliance with the revenue laws in that disloyal section. His confederates attempted also to leave the country, but later information advises me that seeing a Ku-Klux in the trunk of every tree, they went only to the adjoining county and delivered themselves up to the sheriff. If they are innocent officials, the surmise may at least be excited that they would have surrendered in the county in which they were attempting to execute the law.

Now that this House has stricken from the revenue bill the amendment of the gentleman from North Carolina, [Mr. VANCE,] the case which I have just recited may present an opportunity for a conflict of authority between the State and Federal court judges. That the United States judge will presume to attempt to transfer this case to his court for trial, I have no idea. That he would have done so two years ago, there can be no question. But, thanks to the invincible will of a brave and honest people, the State of South Carolina has been reconstructed upon a firm democratic basis, and no longer will a sordid and corrupt Federal judge be allowed to exercise arbitrary or despotic power, as he has frequently done in the past.

The judicial ermine has fallen upon pure and noble men in that State, and the vilest criminal need not fear but that he will get every consideration that the law allows. To say that these revenue officials will have justice done them would simply be insuring their speedy execution, in my opinion; and if resistance to their arbitrary exactions in the performance of their official duties be disloyalty, then, Mr. Speaker, my constituency are of all men most disloyal.

The question being taken on agreeing to the amendment, there were—ayes 29, noes 41; no quorum voting.

Mr. POWERS. I ask for a vote by tellers. This amendment simply proposes to declare specifically by law what is now the construction of the Department.

Mr. RANDOLPH. This is class legislation.

No quorum having voted, tellers were ordered; and Mr. POWERS and Mr. SAYLER were appointed.

The House divided; but before the result of the division was announced,

Mr. POWERS withdrew the call for tellers.

So the amendment was not agreed to.

Mr. VANCE. I move to amend by inserting the following:

*Provided*, That producers of tobacco shall be authorized to sell one hundred dollars' worth of tobacco in the leaf, per annum, to consumers and others, free of tax.

The Forty-third Congress, which was a republican Congress, adopted an amendment similar to this. Now I hope my democratic friends will not go back on that; and I hope my republican friends will follow the example of their political friends in a former Congress. Let these poor people have the right to sell one hundred dollars' worth of tobacco in the leaf.

Mr. BANNING. Does the gentleman consider a republican Congress a good example to follow? [Laughter.]

Mr. VANCE. In some things I do. When they vote in the interest of the poor people, I am in favor of following their example.

The question being taken on agreeing to the amendment of Mr. VANCE, there were—ayes 48, noes 57; no quorum voting.

Mr. VANCE. I call for tellers.

Mr. RANDOLPH. Let us have the yeas and nays at once.

The yeas and nays were not ordered.

No quorum having voted on agreeing to the amendment, tellers were ordered; and Mr. VANCE and Mr. FOSTER were appointed.

The House divided; and the tellers reported—ayes 55, noes 57.

So the amendment was not agreed to.

Mr. SAYLER. I offer the following amendment, which I am sure will meet the approval even of gentlemen who oppose the reduction of the tobacco tax:

Strike out in the amendment of Mr. COVERT, already adopted, the words "on and after the passage of this act" and insert "from and after the 1st day of September, 1878."

This amendment makes the reduction of the tax take effect the 1st of September next instead of taking effect at once, and thus will enable persons engaged in this branch of business to adapt their affairs to the change in the tax.

Mr. O'NEILL. I move to amend the amendment by striking out "September" and inserting "November."

Mr. SAYLER. Oh, no! If we postpone this reduction until September, that will be long enough.

Mr. FOSTER. I would like to amend by inserting "1890" instead of "1878."

Mr. O'NEILL. I presume the gentleman from Ohio [Mr. SAYLER] offered his amendment in good faith, as I have offered mine. I hope that the 1st day of November will be fixed as the time when this reduction of tax shall take effect. A reduction of the tax from 24 cents to 16 cents per pound, to take effect so soon as the 1st of September, will work great injury and injustice to men who have stocks of tobacco on hand. I think they are entitled to at least four months' notice of this change.

Mr. SAYLER. I have assurances that sixty days will be sufficient, and my amendment allows more than sixty days.

Mr. O'NEILL. The bill will not take effect until the 1st of July.

Mr. SAYLER. I call for the previous question.

The previous question was seconded and the main question ordered.

Mr. TUCKER. Is it in order to offer a further amendment?

The SPEAKER *pro tempore*. It is not.

The question being taken on the amendment of Mr. O'NEILL, there were—ayes 32, noes 63; no quorum voting.

Mr. O'NEILL. I call for tellers. This is a very important question.

Mr. SAYLER. It is very important that the change in the tax should take effect as speedily as possible. Manufacturers and others interested ask only sixty days' notice.

No quorum having voted, tellers were ordered; and Mr. O'NEILL and Mr. SAYLER were appointed.

The House divided; and the tellers reported—ayes 55, noes 74.

So the amendment to the amendment was not agreed to.

The question recurred on Mr. SAYLER's amendment.

The House divided; and there were—ayes 66, noes 10.

So the amendment was adopted.

Mr. HARRIS, of Virginia. I offer the following amendment:

That no license tax or special tax, as a dealer in leaf-tobacco, or as a retail dealer in leaf-tobacco, shall be assessed against, or collected from, any farmer or planter for selling or disposing of, to any person or persons, leaf-tobacco of his own production, or tobacco received by him as compensation or rent from tenants, or others who have raised the same upon his lands, or lands under his control, to an amount and value not exceeding \$200.

Mr. BANNING. We have already voted that amendment down two or three times.

The SPEAKER *pro tempore*. This is not precisely the same amendment.

Mr. HARRIS, of Virginia. Mr. Speaker, in my country a small producer has no market for the sale of his tobacco without going to Lynchburg or the city of Richmond. There are no buyers within reach for the small amount of tobacco raised by the small farmer, and it costs more than it is worth to take it to market. As they are compelled to send the tobacco one hundred and fifty miles to market, of course the expense is so great they are not able to realize anything from it. Leaf-tobacco requires the most delicate handling, and it cannot be handled properly without being sent to market in hogsheads, and you cannot put less than one thousand pounds into a hogshead. I hope in the interest of these small producers of tobacco the amendment will be adopted.

The amendment was rejected.

Mr. FOSTER. I offer the following amendment, to come in as a proviso to the amendment of my colleague:

*Provided*, That the tax on tobacco shall be collected at the rate of twenty-four cents per pound until the year 1900.

I hope this amendment at this stage of the question will be adopted, because it is perfectly evident this measure cannot pass this Congress at this session. I voted this morning against the proposition to postpone the consideration of this question because I know it would result in the utter demoralization of the tobacco business in this country. I am satisfied if this measure is carried over to the next session it will result in disaster to the tobacco dealer and tobacco manufacturer all over this country, and therefore I appeal to gentlemen who favor this amendment in the interest of revenue that this question be settled here now.

Mr. SAYLER. That is what we propose to do by passing the bill before we adjourn. I want the gentleman to remember that fact.

Mr. FOSTER. It is utterly impossible to pass it.

Mr. McMAHON. We will show you we can pass it.

Mr. SAYLER. It is not impossible.

Mr. McMAHON. The gentleman [Mr. FOSTER] pretends to speak for the tobacco growers; he does not represent any.

Mr. FOSTER. I represent the interests of the whole people of this country—

Mr. McMAHON. Then let the gentleman speak for the people and not pretend to speak for the tobacco growers or manufacturers whom he does not represent.

Mr. KENNA. I ask the amendment be again read.

The amendment was again read.

The House divided; and there were—ayes 51, noes 84.

Mr. FOSTER demanded tellers.

Tellers were ordered; and Mr. FOSTER and Mr. VANCE were appointed.

The House again divided; and the tellers reported—ayes 58, noes 97.

Mr. FOSTER. I demand the yeas and nays.

Mr. SAYLER. The gentleman means to carry out his threat that we shall not pass this bill.

Mr. FOSTER. You cannot pass it.

The House divided; and there were—ayes 27.

The SPEAKER *pro tempore*. Not a sufficient number to order the yeas and nays.

Mr. FOSTER. I demand tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered. So the amendment was rejected.

Mr. COVERT. I move the following amendment:

*Provided*, The tax on tobacco be collected at the rate of twenty cents per pound and on cigars at the rate of \$4 per thousand until 1883.

I offer this amendment, Mr. Speaker, as a compromise proposition in the interest of the manufacturer and of the producer and in the interest as well of the Government and to the end there may be some stability in reference to this question of tax.

Mr. SAYLER. I make the point of order that the House has decided already the tax shall be placed at the rate fixed.

Mr. BURCHARD. This is a limitation as to the time when it shall go into effect.

The SPEAKER *pro tempore*. As a limitation of the time when it shall go into effect the amendment is in order.

Mr. SAYLER. I ask it be again read.

The amendment was again read.

Mr. GARFIELD. Is debate in order?

Mr. BANNING. The time for debate has expired.

The SPEAKER *pro tempore*. Not on this amendment.

Mr. CABELL. I desire to ask a parliamentary question.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. CABELL. Is it competent to move to lay this amendment upon the table?

The SPEAKER *pro tempore*. That would carry the whole bill with it.

Mr. TUCKER. The gentleman from New York, [Mr. COVERT,] I think, occupied a minute in presenting this amendment.

The SPEAKER *pro tempore*. Not quite a minute, but very nearly. The gentleman from Ohio [Mr. GARFIELD] is recognized.

Mr. GARFIELD. Besides the fact that we cannot spare the revenue is the fact that we have a tariff duty of 90 per cent. on tobacco and cigars. Now, every country in the world taxes tobacco higher than we do. England, eighty cents a pound; other countries in Europe from ninety cents to \$2. [Cries of "Time!" "Time!"] We ought not to cut down the tax.

The question being taken on Mr. COVERT's amendment, there were—ayes 69, noes 92.

So the amendment was disagreed to.

Mr. BURCHARD. I offer an amendment to come in on page 12. I reserved the right to go back.

The SPEAKER *pro tempore*. When page 12 was passed the gentleman from Illinois [Mr. BURCHARD] announced that he reserved the privilege of returning to it.

Mr. BANNING. But the amendment is subject to the point of order.

The SPEAKER *pro tempore*. It is, after it is read.

The Clerk read the proposed amendment, as follows:

Insert on page 12 as follows:

That section 3246 of the Revised Statutes of the United States be amended so as to read as follows:

Nothing in this chapter shall be construed to impose a special tax upon vintners who sell wine of their own growth, or manufacturers who sell wine produced from grapes produced by others at the place where the same is made or at the usual business office of such vintner or manufacturer: *Provided*, That no vintner or manufacturer shall have more than one office for the sale of such wine that shall be exempt from a special tax under this act; nor shall any special tax be imposed upon apothecaries as to wines or spirituous liquors which they use exclusively in the preparation or making up of medicines.

Mr. SAYLER. I ask the gentleman from Illinois to explain the latter part of his amendment; and also whether its language does not imply that a producer of wine may sell both at his manufactory and at his office. Now my understanding of the amendment discussed in the committee was that the manufacturer should not be permitted to sell except at his manufacturing place or at his office; not at both of them.

Mr. BURCHARD. The understanding was, that if the manufacturer had his office, say, at a village near the place of manufacture, he might sell there. The language of this amendment is approved by the Commissioner of Internal Revenue.

The question being taken on Mr. BURCHARD's amendment, it was agreed to.

Mr. BURCHARD. I offer the following amendment:

Amend section 3287 of the Revised Statutes of the United States by inserting in the seventh line, after the word "cask" and before the word "shall," in said line, the words "and shall brand by burning into the head of such cask, in letters of not less than one inch in length; and such brands shall particularly indicate the particular name of such distilled spirits as known to the trade, to wit, high wines, or alcohol, or spirits, as the case may be.

The amendment was agreed to.

Mr. CALDWELL, of Tennessee. I offer the amendment which I send to the desk.

The Clerk read as follows:

On page 30, line 17, amend by inserting before the word "retail" the words "dealer or" &c.; so that it will read:

Shall be liable to said special tax as a dealer or retail dealer.

Mr. CALDWELL, of Tennessee. Mr. Speaker, I call the attention of the gentleman from Illinois [Mr. BURCHARD] and the gentleman from Virginia [Mr. TUCKER] to this amendment. The bill of the committee exempts officers, trustees, and others acting in a fiduciary capacity from the payment of the tax upon retail dealers in leaf-tobacco, but does not exempt them from the tax upon the dealer. The enormous, oppressive, and prohibitory tax upon the retail dealer is \$500, and ought to be removed or reduced. The tax upon the dealer is \$25. The effect of my amendment, if adopted, is to exempt all officers,

trustees, and others acting in a fiduciary capacity from the payment of both taxes.

Mr. TUCKER. That is all right.

The amendment was adopted.

Mr. O'NEILL. I offer the following amendment:

On page 30, line 22, add the following:

That there be allowed a rebate or drawback of the difference between the old and new rates of tax on tobacco that has been paid on such stock thereof as may be held at the time this law takes effect.

I offer that amendment at the request of one hundred and thirty dealers and manufacturers of tobacco in the city of Philadelphia. They request that the bill may be thus amended, so that they may be protected to some extent when this takes effect; in view of the fact that they are holding large stocks on hand.

Mr. SAYLER. As a representative of dealers I say that they do not ask anything of the kind.

Mr. O'NEILL. The gentleman from Ohio may represent the dealers of his district; but I offer this amendment, as I have stated, at the request of one hundred and thirty dealers, large and small dealers in tobacco in the district I represent and the surrounding districts of Philadelphia. I offer it at their request, and hope it may be adopted.

Mr. SAYLER. The very proposition I made to extend the time for the change of tax taking effect to September is intended to accomplish the purpose the gentleman has in view.

Mr. O'NEILL. It does not accomplish that purpose. If the gentleman had made it the 1st of November it might have done so.

Mr. TUCKER. Am I at liberty to say a word on this amendment?

The SPEAKER *pro tempore*. No, sir; debate upon the amendment is exhausted.

The question being taken on Mr. O'NEILL's amendment, it was disagreed to.

Mr. TURNER. I offer the following amendment:

That any producer of tobacco who, by himself, tenants, and employes, does not in any one year cultivate exceeding one acre of tobacco shall have the right to sell one hundred dollars' worth of leaf-tobacco of the crop of each year for the years of 1878, 1879, and 1880, free of tax to any purchaser: *Provided*, That such producer shall on or before the 1st of September of each of those years make and file with the collector of internal revenue for the district in which said tobacco is cultivated an affidavit claiming the benefit of this act and stating that he did not within that year, by his tenants, employes, or otherwise, cultivate more than one acre of tobacco, and shall accompany the same with a like affidavit of one of his nearest neighbors, made before the clerk of the county court of the county in which the tobacco was produced, together with the certificate of such clerk that said affiant is a credible witness: *And provided further*, That such sale shall be made in the county where the tobacco is produced.

Mr. FOSTER. I ask unanimous consent that the gentleman from Kentucky be allowed ten minutes to explain that amendment, as the subject is a new one.

Mr. SAYLER. I object. We have had this matter discussed half a dozen times. Every member who represents a tobacco-growing district has already offered an amendment.

Mr. TURNER. My district is one which has heretofore produced no tobacco, but it turns out that the white-oak and hickory lands in it are susceptible of producing the highest grades of tobacco. No man can afford to pay a license to come into the county to buy the tobacco and the result is that we cannot make an experiment to see whether it will prove to be a profitable crop. I only ask this privilege for three years, so that we can have a little examination as to whether the crop will prove a profitable one. If we can succeed in introducing the crop it will be a source of revenue to the Government. The amendment will not hurt the bill, but I think it will gain some votes for it.

The question was put upon Mr. TURNER's amendment; and on a division there were—ayes 53, noes 40; no quorum voting.

Mr. SAYLER. As no quorum voted I call for tellers.

Tellers were ordered; and Mr. SAYLER and Mr. TURNER were appointed.

Mr. McKENZIE. I desire to inquire whether this amendment applies to the gentleman's district only.

The SPEAKER *pro tempore*. Not at all; it is general.

The House again divided; and the tellers reported—ayes 40, noes 69.

Mr. TURNER. I call for the yeas and nays. I would not do it but for the fact that an impression prevails in the House that the amendment applies only to my own district, whereas it is general.

The yeas and nays were ordered.

The question was taken; and there were—yeas 71, nays 130, not voting 90; as follows:

## YEAS—71.

Atkins,	Clarke of Kentucky,	Hartzell,	Scales,
Bacon,	Clymer,	Hatcher,	Shelley,
Bell,	Cobb,	Hewitt, G. W.	Smalls,
Bicknell,	Cravens,	Herbert,	Smith, William E.
Bliss,	Crittenden,	Jorgensen,	Southard,
Boone,	Culberson,	Kenna,	Sparks,
Boyd,	Davis, Joseph J.	Killinger,	Steele,
Brentano,	Dibrell,	Ligon,	Throckmorton,
Bridges,	Dickey,	McKenzie,	Townshend, R. W.
Bright,	Durham,	Morgan,	Turner,
Brogden,	Felton,	O'Neill,	Turney,
Cabell,	Forney,	Phelps,	Vance,
Cain,	Franklin,	Pollard,	Whitthorne,
Caldwell, John W.	Fuller,	Pridemore,	Wigginton,
Caldwell, W. P.	Garth,	Randolph,	Wilson,
Carlisle,	Harmer,	Rea,	Yeates,
Chittenden,	Harris, Henry R.	Reagan,	Young.
Clark of Missouri,	Harris, John T.	Riddle,	

## NAYS—130.

Aeklen,	Dean,	Humphrey,	Rice, William W.
Aiken,	Deering,	Itner,	Robbins,
Aldrich,	Denison,	James,	Robinson, G. D.
Bagley,	Douglas,	Jones, Frank	Ross,
Banks,	Dunnell,	Jones, James T.	Sampson,
Banning,	Dwight,	Joyce,	Saylor,
Beebe,	Eames,	Keightley,	Shallenberger,
Blackburn,	Eden,	Ketcham,	Singleton,
Blair,	Elam,	Kimmel,	Sinnickson,
Bragg,	Ellis,	Landers,	Smith, A. Herr
Brewer,	Ellsworth,	Lapham,	Starin,
Briggs,	Errett,	Lathrop,	Stone, John W.
Browne,	Evans, James L.	Lindsey,	Stone, Joseph C.
Burchard,	Evins, John H.	Lockwood,	Strait,
Burdick,	Finley,	Maish,	Thompson,
Calkins,	Frye,	Marsh,	Townsend, Amos
Campbell,	Gardner,	McKinley,	Townsend, M. I.
Candler,	Garfield,	Metcalfe,	Tucker,
Cannon,	Gause,	Mills,	Wait,
Caswell,	Hamilton,	Mitchell,	Walker,
Chalmers,	Hardenbergh,	Morrison,	Ward,
Clafin,	Harris, Benj. W.	Morse,	Watson,
Clark, Alvah A.	Harrison,	Muldrow,	Weich,
Cole,	Hart,	Norcross,	White, Harry
Conger,	Hartridge,	Oliver,	White, Michael D.
Cook,	Haskell,	Overton,	Williams, A. S.
Covert,	Hayes,	Patterson, G. W.	Williams, James
Cox, Samuel S.	Hendee,	Patterson, T. M.	Willis, Albert S.
Crapo,	Henderson,	Phillips,	Wood,
Cummings,	Henry,	Pound,	Wren,
Cutler,	Hewitt, Abram S.	Powers,	Wright.
Danford,	Hunter,	Price,	
Davis, Horace	Hunton,	Reilly,	

## NOT VOTING—90.

Baker, John H.	Gibson,	Manning,	Schleicher,
Baker, William H.	Giddings,	Martin,	Sexton,
Ballou,	Glover,	Mayham,	Slemmons,
Bayne,	Goode,	McCook,	Springer,
Benedict,	Gunter,	McGowan,	Stenger,
Bisbee,	Hale,	McMahon,	Stephens,
Bland,	Hanna,	Money,	Stewart,
Blount,	Hazelton,	Monroe,	Swann,
Bouck,	Henkle,	Muller,	Thornburgh,
Buckner,	Hiscock,	Neal,	Tipton,
Bundy,	Hooker,	Page,	Van Vorhes,
Butler,	House,	Peddie,	Veeder,
Camp,	Hubbell,	Potter,	Waddell,
Clark, Rush	Hungerford,	Pugh,	Walsh,
Collins,	Jones, John S.	Quinn,	Warner,
Cox, Jacob D.	Keifer,	Rainey,	Williams, Andrew
Davidson,	Kelley,	Reed,	Williams, C. G.
Eickhoff,	Knapp,	Rice, Americus V.	Williams, Jere N.
Evans, I. Newton	Knott,	Roberts,	Williams, Richard
Ewing,	Loring,	Robertson,	Willis, Benj. A.
Fort,	Luttrell,	Robinson, M. S.	Willits.
Foster,	Lynde,	Ryan,	
Freeman,	Mackey,	Sapp,	

So the amendment was not agreed to.

During the roll-call the following announcements were made:

Mr. PUGH. I am paired with Mr. MARTIN, of West Virginia.

Mr. RYAN. I am paired with Mr. STEPHENS, of Georgia.

Mr. CLARK, of Iowa. I am paired with Mr. McMAHON.

Mr. JONES, of Ohio. I am paired with Mr. BLAND, of Missouri.

Mr. MCGOWAN. I am paired with Mr. GUNTER.

The result of the vote was then announced as above stated.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed the following bill, with an amendment, in which he was directed to ask the concurrence of the House:

A bill (H. R. No. 4336) making appropriations for the construction, repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes.

The message further announced that the Senate had passed bills and a joint resolution of the House of the following titles:

A bill (H. R. No. 720) for the relief of John Eaton;

A bill (H. R. No. 2396) for the relief of John E. Williamson;

A bill (H. R. No. 3980) to confirm the title to the northeast quarter of the northwest quarter of section 7, township 81 north, range 4 east of the fifth principal meridian, Clinton County, Iowa;

A bill (H. R. No. 5053) to provide for the expenses of the select committee on the alleged frauds in the late presidential election; and

A joint resolution (H. R. No. 169) authorizing the payment of the accounts of Lieutenant James T. Leavy, an insane officer.

The message further announced that the Senate had passed a bill of the following title, in which he was directed to ask the concurrence of the House:

A bill (S. No. 1192) to authorize the leasing of a portion of the military reservation of New San Diego, in the State of California.

## INTERNAL REVENUE.

The House, as in Committee of the Whole, resumed the consideration of the internal-revenue bill.

Mr. TUCKER. I offer this amendment:

That subdivision 6 of said section 3244 of the Revised Statutes be, and is here by, amended by adding to said subdivision as follows:

Provided, It shall be lawful for any licensed manufacturer of cigars to purchase leaf-tobacco of any licensed dealer or other licensed manufacturer in quantities less than the original package for use in his own manufactory exclusively.

The SPEAKER *pro tempore*. The Speaker of the House, with the consent of the gentleman from Virginia, [Mr. TUCKER,] will now re-

sume the chair for the purpose of bringing before the House for its action some matters that should receive immediate consideration.

Mr. TUCKER. I will yield for that purpose.

The SPEAKER *pro tempore*. The amendment of the gentleman will be considered as pending, and will be voted on when the consideration of the internal-revenue bill is again resumed.

## ORDER OF BUSINESS.

The SPEAKER. There are one or two matters of importance which should be attended to at this time, and the Chair asks permission of the House that the pending measure be temporarily laid aside.

There was no objection.

## POST-ROUTE BILL.

Mr. CANNON, of Illinois. I rise to a privileged question.

The SPEAKER. The gentleman will state it.

Mr. CANNON, of Illinois. I move that the House accede to the request of the Senate for a committee of conference touching the bill (H. R. No. 4286) to establish post-routes in the several States therein named.

The motion was agreed to.

Mr. CANNON, of Illinois, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## FINAL ADJOURNMENT OF SESSION.

Mr. WOOD. I rise to a privileged question, and call up the concurrent resolution from the Senate proposing to postpone the day of final adjournment of the present session.

The resolution of the Senate was read, as follows:

*Resolved, (the House concurring,)* That the time fixed by the two Houses of Congress for the final adjournment of the second session of the Forty-fifth Congress is hereby extended to twelve o'clock meridian on Thursday, the 20th day June, current, and at that time the President of the Senate and the Speaker of the House of Representatives shall adjourn their respective Houses without day.

Mr. WOOD. Believing that it is possible for us to adjourn at an earlier period than the day fixed in the resolution of the Senate, I move that the House non-concur in the resolution.

Mr. HALE. That is right.

Mr. WOOD. And on that motion I call the previous question.

The previous question was seconded and the main question was ordered.

The SPEAKER. The question is upon the motion of the gentleman from New York [Mr. WOOD] to non-concur in the resolution of the Senate which has just been read.

Mr. HANNA. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. AIKEN. If the majority of the House shall vote "no," what will be the result?

The SPEAKER. Then the resolution of the Senate will be open to amendment or concurrence. This vote is on non-concurrence.

Mr. BURCHARD. The usual form of putting the question is on concurrence.

The SPEAKER. By unanimous consent, the gentleman from New York [Mr. WOOD] can modify his motion.

Mr. WOOD. If the House will give me a moment, I will endeavor to explain the reason for the motion which I have made. I believe it is entirely within our power to pass all the necessary legislation now pending before Congress by Monday night or certainly Tuesday morning next. And I believe that if we now concur in the resolution of the Senate, when Thursday comes the Senate will again ask us for postponement. I believe that if we make the proper effort we can get through all necessary legislation by Monday night or Tuesday morning, and therefore I have moved to non-concur in the resolution of the Senate.

Mr. WADDELL. I object to debate.

Mr. VANCE. Is it not in order to move to concur in the Senate resolution?

The SPEAKER. That is not now in order, because the main question has been ordered upon the motion to non-concur.

Mr. WADDELL. Is there any such motion known to parliamentary law as to non-concur?

The SPEAKER. That motion, if carried, will be a practical disagreement between the two Houses.

Mr. WADDELL. Is not the proper motion a motion to concur?

Mr. CRITTENDEN. There is a misunderstanding in this part of the House as to what motion is now pending.

The SPEAKER. It is the motion of the gentleman from New York [Mr. WOOD] to non-concur in the resolution of the Senate postponing the day of final adjournment until Thursday next.

Mr. WADDELL. I move to concur in the Senate resolution.

The SPEAKER. The previous question has been seconded and the main question ordered on the motion of the gentleman from New York [Mr. WOOD] to non-concur.

Mr. BEEBE. And the yeas and nays have been ordered on that motion.

The SPEAKER. Certainly.

Mr. WADDELL. That is a motion unknown to the rules of the House.

Mr. BANKS. I would suggest to the gentleman from New York [Mr. WOOD] that if he desires a shorter time he could propose an amendment to the resolution.

Mr. BEEBE and others called for the regular order.

Mr. ATKINS. I desire to make an inquiry of the gentleman from New York, [Mr. WOOD.] I would like to know what information he has from the Senate in regard to the fate of the sundry civil appropriation bill. I am informed by gentlemen who belong to the Committee on Appropriations of the Senate that they cannot report that bill before next Tuesday morning.

Mr. EDEN. They can do it if they try.

Mr. ATKINS. They ought to know best.

Mr. BEEBE. I object to debate. [Cries of "Vote!" "Vote!"]

Mr. WADDELL. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. WADDELL. The question as now submitted to the House is not known to parliamentary law.

The SPEAKER. The motion was not objected to at all when submitted. The House can express its opinion upon the subject one way as well as another.

Mr. WADDELL. I move to concur in the Senate resolution. The House can vote it down if they desire.

The SPEAKER. The main question was ordered upon the motion to non-concur, and that cuts off all amendment.

The question was taken; and there were—yeas 143, nays 110, not voting 38; as follows:

## YEAS—143.

Aldrich,	Cummings,	James,	Price,
Bacon,	Cutler,	Jones, Frank	Rainey,
Bagley,	Danford,	Jones, John S.	Randolph,
Baker, John H.	Davis, Horace	Jorgensen,	Rea,
Baker, William H.	Dean,	Joyce,	Reed,
Banks,	Deering,	Keifer,	Reilly,
Bayne,	Denison,	Keightley,	Rice, William W.
Beebe,	Dwight,	Killinger,	Robinson G. D.
Benedict,	Eames,	Landers,	Ross,
Bisbee,	Eden,	Lathrop,	Ryan,
Blair,	Eickhoff,	Lindsey,	Sampson,
Bliss,	Ellsworth,	Lockwood,	Shallenberger,
Bouck,	Errett,	Loring,	Sinnickson,
Boyd,	Evans, I. Newton	Lynde,	Smalls,
Brentano,	Evans, James L.	Maish,	Smith, A. Herr
Brewer,	Fort,	McCook,	Sparks,
Bridges,	Foster,	McGowan,	Starin,
Briggs,	Franklin,	McKinley,	Stone, John W.
Browne,	Frye,	Metcalfe,	Stone, Joseph C.
Burchard,	Fuller,	Mills,	Thompson,
Burdick,	Gardner,	Mitchell,	Townsend, Amos
Cain,	Hale,	Monroe,	Townsend, M. I.
Calkins,	Hanna,	Morgan,	Turney,
Cannon,	Hardenbergh,	Morrison,	Veeder,
Chittenden,	Harris, Benj. W.	Morse,	Wait,
Clafin,	Hart,	Muller,	Warner,
Clark, Alvah A.	Hayes,	Neal,	Watson,
Clark, Rush	Hendee,	Norcross,	White, Harry
Clymer,	Henderson,	O'Neill,	White, Michael D.
Cobb,	Henry,	Overton,	Williams, Andrew
Cole,	Hewitt, Abram S.	Page,	Williams, C. G.
Collins,	Hewitt, G. W.	Patterson, G. W.	Willis, Benj. A.
Conger,	Hiscock,	Peddie,	Willis,
Covert,	Humphrey,	Pollard,	Wood,
Cox, Jacob D.	Hungerford,	Potter,	Wright,
Crapo,	Hunter,	Powers,	

## NAYS—110.

Acklen,	Davis, Joseph J.	Herbert,	Sayler,
Aiken,	Dibrell,	Hooker,	Scales,
Atkins,	Dickey,	House,	Schleicher,
Banning,	Douglas,	Hunton,	Shelley,
Bell,	Dunnell,	Itnier,	Singleton,
Bicknell,	Durham,	Jones, James T.	Smith, William E.
Blackburn,	Elam,	Kelley,	Southard,
Blount,	Ellis,	Kenna,	Springer,
Boone,	Evins, John H.	Ketcham,	Steele,
Bragg,	Ewing,	Kimball,	Stenger,
Bright,	Felton,	Knott,	Strait,
Brogden,	Finley,	Lapham,	Throckmorton,
Butler,	Forney,	Ligon,	Townshend, R. W.
Cabell,	Freeman,	Marsh,	Tucker,
Caldwell, John W.	Garth,	Mayham,	Turner,
Caldwell, W. P.	Ganse,	McKenzie,	Vance,
Campbell,	Gibson,	McMahon,	Waddell,
Candler,	Giddings,	Muldrow,	Walker,
Carlisle,	Goode,	Phelps,	Ward,
Caswell,	Hamilton,	Phillips,	Whitthorne,
Chalmers,	Harmer,	Pound,	Wigginton,
Clark of Missouri,	Harris, Henry R.	Pridemore,	Williams, Richard
Clark of Kentucky,	Harris, John T.	Reagan,	Willis, Albert S.
Cook,	Harrison,	Rice, Americus V.	Wilson,
Cox, Samuel S.	Hartbridge,	Riddle,	Yeates,
Cravens,	Hartzell,	Robbins,	Young,
Crittenden,	Haskell,	Roberts,	
Culberson,	Hatcher,	Robertson,	

## NOT VOTING—38.

Ballou,	Henkle,	Pugh,	Tipton,
Bland,	Hubbell,	Quinn,	Van Vorhes,
Buckner,	Knapp,	Robinson, M. S.	Walsh,
Bundy,	Luttrell,	Sapp,	Welch,
Camp,	Mackey,	Sexton,	Williams, A. S.
Davidson,	Manning,	Slemmons,	Williams, James
Garfield,	Martin,	Stephens,	Williams, Jere N.
Glover,	Money,	Stewart,	Wren.
Gunter,	Oliver,	Swann,	
Hazelton,	Patterson, T. M.	Thornburgh,	

So the motion to non-concur in the resolution of the Senate was agreed to.

During the roll-call the following announcements were made:

Mr. ROBERTS. My colleague, Mr. WALSH, is detained from the House by sickness.

Mr. PUGH. I am paired with the gentleman from West Virginia, Mr. MARTIN. If he were present, he would vote "no" and I should vote "ay."

Mr. BOUCK. The gentleman from New York, Mr. BUNDY, is paired with the gentleman from Georgia, Mr. STEPHENS.

The result of the vote was announced as above stated.

Mr. WOOD moved to reconsider the vote just taken; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the bill making appropriations for the support of the Army.

## PRESIDENTIAL TITLE.

Mr. KNOTT. I rise to a question of privilege. The House yesterday was kind enough to accord to me the privilege of presenting my views with regard to a resolution reported from the Committee on the Judiciary. I respectfully ask the attention of the House.

The SPEAKER. If the gentleman will send forward his statement it will be printed.

Mr. KNOTT. Mr. Speaker, I do not care particularly about it myself, but a number of gentlemen have desired that it should be read. I ask the privilege of reading it.

The SPEAKER. The majority report was read.

Mr. CONGER. There is so much confusion we do not understand what is the proposition before the House.

The SPEAKER. The gentleman from Kentucky [Mr. KNOTT] desires that his views as a minority of the Committee on the Judiciary upon the resolution reported yesterday may now be read. The House granted unanimous consent that this minority report should be presented.

Mr. KNOTT, (having taken a place at the Clerk's desk.) Mr. Speaker, it is with unfeigned regret—

Mr. PAGE. I hope we shall have order before the gentleman from Kentucky proceeds.

The SPEAKER. The Speaker came into the chair upon the understanding with the gentleman from Virginia [Mr. TUCKER] that the two matters then suggested should be the only matters considered; but the Chair is at a loss to know how to avoid this.

Mr. TUCKER. I understand that the gentleman from Kentucky [Mr. CARLISLE] vacated the chair simply for the purpose of having the question of final adjournment considered.

The SPEAKER. That is correct.

Mr. TUCKER. No one would hear with greater pleasure than myself the report (very able, I doubt not) of my friend from Kentucky; but our time is very precious for the consideration of the internal-revenue bill; and I am constrained therefore, if this proceeding requires unanimous consent, to object to the reading of the report.

The SPEAKER. The Chair thinks that, as the consideration of the internal-revenue bill was interrupted, and the chair vacated by the Speaker *pro tempore* upon an understanding with the House, it is in good faith that the understanding should be adhered to; but the Chair will recognize the gentleman from Kentucky [Mr. KNOTT] later in the day.

Mr. KNOTT. I had sought the present moment because, as a number of gentlemen are aware, I am not in very good health, and desire to leave the Hall as soon as possible.

Mr. ROBBINS. I hope permission will be granted to the gentleman to print his report.

Mr. HARTRIDGE. Yesterday, when I presented the report of the majority of the Committee on the Judiciary, I stated that the chairman of the committee was confined to his bed by illness or he would then have presented the report.

If he had been able then to present it, it would have been read either by himself or by the Clerk. I trust the House will accord to him the courtesy of being heard to-day, as he was detained yesterday from the House by illness.

The SPEAKER. The Chair has no objection, but he wishes the House to understand the circumstances under which he assumed the chair. If the House is content, the Chair certainly is.

Mr. TUCKER. I have no objection in the world to the gentleman from Kentucky having some time yielded to him for reading this report; I shall be glad to hear it read by him; but I cannot, looking to the interests involved in this bill, give way to it at this time.

Mr. SPRINGER. Do I understand this requires unanimous consent?

The SPEAKER. The Chair has stated the circumstances under which he assumed the chair by consent of the gentleman from Virginia, [Mr. TUCKER.] It was with the agreement that as soon as the adjournment resolution was disposed of the gentleman from Kentucky would resume the chair, and the House, as in Committee of the Whole, would proceed with the consideration of the internal-revenue bill.

Mr. KENNA. I rise to a parliamentary inquiry. I submit it could not put the Chair in a false position to yield under the circumstances to a privileged report.

The SPEAKER. The Chair is perfectly willing to yield to the gentleman from Kentucky, but he wishes to act in good faith to the House.

Mr. ITTNER. I ask that my vote on the question of adjournment be recorded in the negative.

There was no objection, and it was ordered accordingly.

Mr. WOOD. I think it was the understanding yesterday on all sides of this House that the gentleman from Kentucky, when he recovered from his indisposition, should be heard in submitting his minority report. It was tantamount to unanimous consent, and I hope the House will hear him.

The SPEAKER. The Chair will hear him with pleasure, if the House consents.

Mr. SPRINGER. If there be objection, I move to suspend the rules, in order that the gentleman from Kentucky may proceed with the reading of the minority report.

Mr. ROBBINS. I object.

Mr. WILLIAMS, of Oregon. If it requires unanimous consent, I object.

Mr. SPRINGER. I move, then, to suspend the rules.

Mr. TUCKER. Does the Speaker understand me as having yielded? I cannot yield.

Mr. SPRINGER. I move to suspend the rules in order to receive the minority report from the Committee on the Judiciary.

Mr. PRIDEMORE. I demand a division.

The House divided; and there were—ayes 144, noes 34.

So (two-thirds having voted in favor thereof) the rules were suspended in order to allow Mr. KNOTT to present the minority report.

#### PRESIDENTIAL TITLE.

Mr. KNOTT read from the Clerk's desk the following minority report from the Committee on the Judiciary:

Views of J. PROCTOR KNOTT, minority of the Committee on the Judiciary of the House of Representatives of the United States of America, dissenting from the report of said committee on House bill No. 4315, entitled "A bill to provide a mode for trying and determining by the Supreme Court of the United States the title of the President and Vice-President of the United States to their respective offices when their election to such offices is denied by one or more States of the Union:

It is with unfeigned regret that the undersigned finds himself unable to concur in the conclusions embraced in the resolution reported by the Committee on the Judiciary or in the reasoning by which those conclusions seem to have been reached; and that regret is materially heightened by a profound deference to the superior judgment of his colleagues and a painful diffidence of his own opinions when opposed to theirs. The questions involved, however, are of such extraordinary interest and gravity, and the consequences of whatever action Congress may take thereon must necessarily be so important in their relations to the future history, if not to the present administration, of the Federal Government, he feels constrained to ask a calm and impartial consideration of the following views, however ill-digested and imperfect a careful examination may show them to be.

The great underlying question to be determined in this discussion is not the one which the committee seem to consider paramount to all others. It is not merely whether the present incumbents of the Presidency and Vice-Presidency of the United States shall be disturbed in their enjoyment of the exalted official positions they respectively occupy. It has a wider range and reaches an infinitely profounder depth than this. It is true that it may incidentally affect the title of a couple of citizens to the honors and emoluments of certain high and important offices now claimed by them, but it also involves the dignity and sovereignty of thirty-eight independent and coequal States, as well as the rights and liberties of over forty millions of people. Its correct determination might lead to a peaceful and satisfactory solution of an existing controversy, the most remarkable, perhaps, that has ever challenged the attention of civilized men; yet it extends far beyond the present hour and affects the destinies of generations yet unborn. It may be pushed aside now, through party or personal considerations, but "it will not down at your bidding." It will recur again and again until the grandest Republic that ever cheered the drooping aspirations of humanity shall cease to be numbered among the political powers of the earth.

That momentous question is: whether under a government which was designed to be, and which stands pre-eminent among all others ever ordained among men as a government of law, there is any one whose rights are above and whose dignity is beyond the reach of law; whether one who may have been wrongfully inducted into the highest executive magistracy of this great Union of republics, either by mistake or through the fraudulent machinations and felonious practices of a handful of political buccaners, can be removed from that position, elevated as it is, through the peaceful methods of the law; or whether "the round and top of sovereignty" which he has assumed can only be stripped from his brow by the strong hand of physical force.

Such is a fair statement of the most important question involved in the resolution reported by the committee, which is substantially a proposition that the chosen representatives of the people shall gravely and deliberately announce to the world in an official form that the title of one who has been, or may be, formally inducted into the office of President or Vice-President of the United States, although in open violation of the plainest provisions of the Constitution, cannot be legally questioned by any authority or in any peaceful method whatever save upon impeachment, which can only take place when the incumbent has been guilty of some high crime or misdemeanor; that he can hold the office not only in utter contempt of the fundamental law of the land, but in defiance of the will of the people, unless by a successful appeal to arms they may expel him from the high position he has illegally assumed; that his right to it cannot be determined either by Congress or in the quiet forum of justice according to established principles of law, but if questioned at all the issue must be remitted to the bloody arena of civil war to be settled amid the fierce clash of contending armies.

That this is not placing the proposition of the committee in too strong a light the language of the resolution will itself attest. It is as follows:

"Resolved, That the two Houses of the Forty-fourth Congress having counted the votes cast for President and Vice-President of the United States, and having declared Rutherford B. Hayes to be duly elected President, and William A. Wheeler Vice-President, there is no power in any subsequent Congress to reverse that declaration, nor can any such power be exercised by the courts of the United States, or any other tribunal that Congress can create under the Constitution."

A fair analysis of this resolution exhibits the following propositions:

I. That Congress has the constitutional power not only to count the electoral votes cast for President and Vice-President of the United States, but to declare who has been elected to each of those offices.

II. That when Congress has once declared who has been elected President or Vice-President that declaration is final and conclusive, neither any subsequent Congress nor any court of the United States, nor any tribunal that Congress may have the power under the Constitution to create, having any authority whatever to reverse that declaration. From which it must result as a necessary corollary:

III. That the mere declaration of the two Houses of Congress that a particular

person had been duly elected President or Vice-President would invest him with a complete title to such office, whether he possessed a single constitutional qualification therefor or had in fact been elected thereto or not; and consequently, if the people should not see proper to submit quietly to the fraud upon their rights and the violation of their Constitution, their only remedy would be in a resort to arms.

Whether these propositions are true or not is certainly a question worthy of the most serious consideration; for, if they are true, they unquestionably present a most singular and alarming anomaly in the Constitution of a Government ordained by a great and free people to establish justice, to insure domestic tranquillity, and secure the blessings of liberty to themselves and their posterity.

Indeed the bare suggestion of the proposition that the majesty of the law cannot be invoked in any manner to oust a fraudulent incumbent from any office into which he may have been foisted in defiance of its highest mandates, would seem to be sufficient to indicate the propriety of examining it with somewhat more than ordinary particularity. The undersigned would therefore respectfully invite at least a brief attention to the premises from which this startling conclusion seems to have been drawn.

It is assumed in the first place, both in the resolution and the accompanying report, that the two Houses of Congress have not only the power to count the electoral votes, but to "declare" who has been elected President and who Vice-President, and such "declaration," whether true or false, whether made through mistake or procured by fraud, is conclusive and settles the question as to the validity of the title of those whom they may declare to be elected finally and forever, at least so far as any peaceful means of redress may be concerned. If it is true that the two Houses are thus vested with a high, in fact the highest possible, judicial power, the power to determine the most valuable right that can pertain to a citizen, as well as the most important interests of a great community of States, and that too by a mere "declaration," without hearing a syllable of "evidence *alimide* the papers," fabricated, perhaps, in some instances, by corrupt officials under the temptation of public plunder, and without even the form of a trial, and that from such "declaration" there is no possible appeal but to arms, it can certainly be clearly shown from the Constitution, and, as this seems to be the corner-stone of their entire theory, it is to be regretted that the committee have not deemed it necessary to indicate the provision by which such a tremendous power is conferred.

In all other instances in which either House is clothed with judicial or even quasi-judicial functions, the provisions seem to have been expressed with great particularity and can be easily discovered. For instance, it is distinctly provided that "each House shall be the judge of the election, return, and qualification of its own members," and that each House may "punish its members for disorderly behavior, and with the concurrence of two-thirds expel a member," and that the House of Representatives "shall have the sole power of impeachment," and that "the Senate shall have the sole power to try all impeachments." It would be singular, therefore, indeed very singular, that the framers of the Constitution should omit to say in express terms that the Senate and House of Representatives shall have power to declare who is elected President and Vice-President of the United States, and their declaration, whether right or wrong, shall never be reversed either by any subsequent Congress or any court of the United States or other tribunal that Congress may have authority under the Constitution to create, if indeed it be true that they ever intended to confer any such extraordinary jurisdiction upon them.

We explore the Constitution in vain, however, for any express delegation of such a remarkable power to either or both Houses of Congress, though we have no difficulty in finding the plain and emphatic declaration that "the judicial power of the United States shall be vested in one supreme court, and such inferior courts as the Congress may from time to time establish." The only provision that can be discovered with reference to the "counting" of the electoral vote is embraced in the simple language that "the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted: the person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed, while with regard to any supposed power on the part of the two Houses to render any judgment or make any "declaration" whatever, the Constitution is totally silent. Yet if the framers of this provision had intended that Congress should have any such anomalous power as is now claimed for it, how easy it would have been for them to have said in plain, express terms, "the votes shall then be counted, and the two Houses shall thereupon declare who, if any one, has received a number of votes for President equal to a majority of the whole number of electors appointed, and that such person has been duly elected and shall be the President, which declaration shall be final and forever conclusive of the question of his title to said office."

Had they done so there could be no possible mistake as to their intentions. But they did not, and the inevitable inference is therefore that they never intended that the Congress should have any such power as that claimed for them by the committee.

Then, as there is no express delegation of any such power to Congress to be found anywhere in the Constitution, it must arise, if it exist at all, by implication. It will not be contended, however, by any one having the slightest familiarity with the well-established canons of constitutional construction that any power can be implied from the Constitution *except in aid of some power expressly granted*. It is somewhat unfortunate, therefore, that the committee has failed to specify which one of the powers expressly delegated to Congress in the Constitution cannot be fully and completely executed without the aid of this power to "declare" who is elected President and who Vice-President. Perhaps it would not be a very gross breach of propriety to say, however, that the proposition is so utterly absurd that it would be but an idle waste of time to show that the power to make any such "declaration" is totally unnecessary to the execution of any power whatever that may have been expressly granted to Congress.

It is not even necessary to perfect the title of either the President or Vice-President. Their titles are derived from an entirely different source and are complete without it. One who has the prescribed constitutional qualifications as to nativity, age, and residence, and has received the requisite number of votes for President has just as perfect a right to that office as if both Houses of Congress had proclaimed that fact a thousand times.

Whence, then, do the two Houses of Congress derive this extraordinary jurisdiction, exclusive and final in its character, to adjudicate upon and determine the question of title to either the office of President or Vice-President, or both, if it is neither expressly granted to them in the Constitution nor necessary in aid of any such express power they may possess? The answer is plain and simple. It is impossible for them to have it at all.

It is true they might, if they saw proper to risk the consequences of disarranging the machinery and embarrassing the operations of the Government, refuse to hold official intercourse with or to provide the means necessary for carrying on the administration of one who might be in possession of the office of President contrary to their individual or collective judgment as to the validity of his title; and so they could withhold from the courts of the Union the machinery necessary to a judicial determination of his title if indeed the trial of such a question comes within the judicial power of the Government; but they can clearly have no power to determine it judicially themselves, and no mere "declaration" they may make can have the effect of such a determination.

This question out of the way, therefore, the next one that presents itself is, whether the title of an incumbent of the office of President or Vice-President of the United States to such office can be constitutionally determined by the courts of the United States, provided they are furnished by congressional enactment with the requisite legal machinery. In other words, is jurisdiction of such a question within the "judicial power of the United States?"

The proper solution of this inquiry depends primarily upon the nature of the question itself. If it is a mere political question, as the committee claim it to be, or if its determination by the judiciary would interfere with either of the other Departments of the Government in respect to matters which are by the Constitution committed to them it certainly is not; "for the Department in which the Constitution vests a power must execute that power, and no other department could be allowed to interfere with its execution without destroying the balance of the Constitution, and producing disorder and confusion." If, on the contrary, it is a question of mere legal right, arising under the Constitution and laws of the United States, it may or may not be, according to circumstances.

A title to the office of President or Vice-President, as already observed, comprises certain elements clearly defined in the Constitution, in the absence of any of which it cannot be valid: first, the person claiming it must be a natural-born citizen of the United States or a citizen thereof at the time of the adoption of the Constitution, he must have been at least thirty-five years of age, and must have resided within the United States at least fourteen years at the time he claims to have been elected; second, he must have received a number of votes cast by constitutionally eligible electors, chosen as such in the manner directed by the Legislatures of their respective States, equal to a majority of the whole number of electors chosen; and, third, such votes must have been cast in the manner and within the States in which the electors casting them were respectively chosen, and lists thereof must have been made out, signed, certified, and transmitted to the seat of Government of the United States under seal, and directed to the President of the Senate, as the Constitution provides; or, failing to receive the requisite number of electoral votes, he must, if claiming the office of President, have been elected by the House of Representatives, or by the Senate if claiming to be Vice-President, in the manner prescribed by the Constitution.

If the title of the claimant lack any one of these essential ingredients he can have no more right to exercise the office by virtue of the election under which he claims it than if he had never been born, and, on the contrary, if his title possess all these elements his right to hold and enjoy the office is as perfect as human law can make it. The machinations of evil-minded men may keep him out of it, but his right remains the same notwithstanding. It is his by virtue of the act of those authorized to confer it upon him in pursuance of the plainest provisions of the paramount law of the land. It is therefore strictly a legal right, and a right of the most valuable and coveted character, a right to have the emoluments, perform the functions, and enjoy the honors of one of the most elevated and dignified official positions upon the earth.

Moreover, it is a right arising directly under the Constitution and laws of the United States, and no reason can be shown why it should not be as sacred and inviolable in the eye of the law as his right to the possession of the homestead to which he has an indefeasible title. But suppose he is deprived of the enjoyment of it by one who has no title at all, would a judgment of ouster rendered by a judicial tribunal of the United States against the unlawful intruder, or a proceeding for that purpose before such a tribunal, be such an improper interference with the constitutional functions of a co-ordinate department as would disturb the balance of the Government or lead to disorder and confusion in the conduct of its administration? The mere statement of the proposition that a peaceful proceeding, conducted in pursuance of plain and fixed principles of law, for the purpose of protecting, defending, and enforcing the Constitution, by removing a person from an office into which he has intruded himself without right and in violation of the Constitution, would be unconstitutional seems to be so utterly absurd as to carry its own refutation upon its face. Suppose the illegal intruder be ousted and the rightful claimant put in possession, will that affect the office? Not in the least. Its functions remain precisely the same. The removal of the unlawful incumbent would not alter them a particle. The rightful claimant would simply be placed in the discharge of the identical duties previously performed by one who had no legal right to do so. Such a proceeding would in no sense be a proceeding against the office, but to defend and protect the office from the possession of one who has no right to it, and who could not assume to perform its functions without a violation of law. If the mere removal of an incumbent of an office interferes with the office itself, then there is no possible means of preventing such an interference short of making the tenure eternal by making it a capital offense for an officer to resign and an injunction upon Divine Providence, for if a mere change of tenants by removal affects the office, a change by expiration of term, resignation, or death would have precisely the same effect.

Indeed, if it be true that the mere removal of an intruder from an office to which he is not legally entitled is so dangerous to the integrity of our Government as to be unconstitutional, it is equally certain that our provisions for removing an officer by impeachment are unwise and ought to be abolished. And it may well be asked if a President who has assumed the functions of that office under a perfect title can be removed by the legislative department of the Government on impeachment and his title declared forfeited for crime, why the judicial department may not remove one who has no title at all! One would be no greater interference with the constitutional functions of the executive department than the other.

The fallacy of the assumption that a judicial proceeding to remove an intruder from an office to which he has no title involves a mere political question, and cannot be cognizable before any court of the United States, because it would interfere with the functions of a co-ordinate department of the Government, may be placed in a clearer light, however, by supposing a case certainly within the range of the nearest possibility. Suppose that the President, in ignorance of the facts, should appoint to some office placed by law exclusively within his bestowal a person under the disabilities imposed by the third section of the fourteenth article of the amendments to the Constitution, and after having discovered the truth should nevertheless fail or refuse to remove him, upon the ground that both appointments to and removals from that office were peculiarly within the sphere of his own official functions. And that consequently the power to judge of all the facts and circumstances pertaining to either of such acts was vested solely in himself. Nobody would dispute the fact that the power to appoint and to remove are under the circumstances certainly executive functions. Yet will any one deny that such an appointee could be ousted by proceeding of *quo warranto*, in either a district or circuit court of the United States, under the provisions of sections 563, 629, and 1786 of the Revised Statutes?

The language of Chief-Justice Parsons, of Massachusetts, in delivering the opinion of the court in the case of the *Commonwealth vs. Fowler*, (10 Mass.), precisely parallel to the one just supposed, is so apposite that it may well be quoted here. Said he:

"The other objection is that an information of the nature of that before us in this case does not lie against an officer appointed by the supreme executive authority of the commonwealth. And it is said that as the executive has the exclusive right of appointing, so it must have exclusively the right to determine when a vacancy in office exists the filling of which appertains to that branch of the Government, the executive being a branch of the sovereignty of the commonwealth equally independent with the judiciary."

Our Government is founded on principles not known to the laws of any other country. The sovereignty of the commonwealth remains in the people. The several departments of the Government, the legislative, the executive, and the judicial, are agents of the people in their "respective spheres. When the Legislature enacts a law (or the Executive makes an appointment) not authorized by the Constitution, it is the part and duty of the judiciary to pronounce such an act or appointment null and void. Where one is charged with usurping an office in the commonwealth there *must* be authority in this court to inquire into the charge." It may be added that the court acting upon this principle sustained its jurisdiction, and finding the appointment of Fowler to be unconstitutional declared it void, and it

is impossible to show any good reason why the same principles do not apply to the Constitution and Government of the United States.

If, therefore, it is competent for the judiciary to render judgment of ouster in a proceeding on a writ of *quo warranto* against one illegally holding an office, in a case involving the review and annulment of a power vested exclusively in the executive department, why may it not do so in a case where no clash of jurisdiction can possibly occur? And if the incumbent of the lowest office in the executive department may be ousted by judicial sentence under due process of law, where is the provision of law, or the principle of reason or justice, that affords an immunity to one who illegally intrudes himself into the highest? Why should the President be above the law more than the peasant? What makes him the special care of "that divinity that doth hedge about a king," even when his title is valid. He is not sovereign. He is but an officer, like others selected by the people in the manner which they have themselves prescribed for the discharge of certain functions of their government. True, he receives a larger salary and exercises more varied and important powers; yet after all he is but an officer, the mere agent of the people, who are the ultimate repository of supreme authority. It may be repeated, then, why can not the title of one who assumes the highest office in the executive branch of a government of co-ordinate departments be tested by a judicial proceeding as well as that of him who claims the lowest?

The most plausible objection that can be urged against this proposition is the one so frequently heard, that the removal of an incumbent of the office of President and substituting another in his place by judicial proceedings, would be tantamount to the election of a President by a court, instead of the people; yet scarcely any assumption could be more fallacious. With the same propriety it might be said that courts should not be intrusted with the trial of any *property* rights whatever, because their judgments would have the effect to take from one man property to which he has a perfect title and give it to another who has no right to it at all. The very same reasoning would apply with equal force against allowing the Senate and House of Representatives to judge of the election, returns, and qualifications of their own members, or with the concurrence of two-thirds to expel a member because there might be a possibility that with such powers one or both Houses, through party passion, corruption, or mistake might deprive one or more States, either partially or totally, of their proper representation in the Federal Congress.

The truth is a judgment of ouster against an unlawful intruder into the office of President would not destroy his right to the office, simply because he had no right to be destroyed; nor would it create a right in the lawful claimant, because his right existed already, and resulted from the fact that he possessed all the qualification and actually received the number of valid votes prescribed in the Constitution to elect him. The law creates the title of the rightful claimant, and the court is the mere instrument of the law, provided by the Constitution, to ascertain, protect, and enforce that right. Its function is the same in this precisely as in all other controversies between party and party—not to create rights, but to determine and enforce them according to fixed and definite rules.

"The court awards it, and the law doth give it."

Unfortunately, owing to the frailties and infirmities incident to human nature, it may be true that even the courts might err and the lawful claimant be thus defeated of his right and the people of their choice, for judges are but human, subject to the like passions and prejudices with other men; but after all it cannot be denied that the rights of the claimants as well as the interests of the people would be as safe in a quiet, dignified forum, where questions of law and of fact could be thoroughly discussed and calmly considered, after the acrimony engendered by an exciting contest had at least partially subsided, and the popular judgment become somewhat cool, as they would be in the hands of a partisan majority in Congress, hot from the field of political strife, to be determined amid the rush and turmoil of general legislation, without evidence and with perhaps but ill-digested opinions of the law; or under the manipulations of knavish returning officers, assisted by "money and troops if necessary," and corrupted by liberal promises of lucrative places in custom-houses, or "consulates in a warm climate," or even with an electoral commission that might feel a delicacy about "going behind a great seal."

In consequence of certain peculiarities in its theory and organization, and not to be found in our own, this question could not be and therefore has never been the subject of judicial inquiry or decision under the government from which our system of jurisprudence has been mainly derived. Yet we are not entirely destitute of judicial authority upon it, for although it can be said to the credit of our institutions and the virtue and moderation of our people that there has been but a single instance in the history of any of our State governments in which it has been found necessary to raise the question whether the judiciary have power to decide upon the title of the chief executive, in that case the power was affirmed and the jurisdiction sustained.

That was the case of The State of Wisconsin at the relation of Coles Bashford against William A. Barstow, on an information in the nature of a *quo warranto* in the supreme court of that State in the year 1856. The respondent appeared and filed a motion to dismiss the proceedings on the ground that the court had no jurisdiction in the premises; and, as the point is stated with great clearness and precision in the opinion of the court delivered by Chief-Justice Wheaton, it will be quite sufficient to quote his exact language. The court said:

"The question presented for our consideration is whether in case of the lawful election of a person to the office of governor, and an unlawful intrusion into it by another without color of right, this court has jurisdiction to entertain proceedings having for their object the removal of the unlawful intruder, and the establishment of the right of the person lawfully entitled to the office. The counsel for the respondent have contended that we have not this power for various reasons, and first, because it cannot be exercised without giving this court control of the executive department of the Government.

"It is contended that our Government is divided into three departments, the executive, the legislative, and the judicial; that these departments are co-ordinate; that each is independent of the other, and that neither can interfere with the other without destroying the harmony of the Government.

"The Constitution does vest the executive power in the governor. It also vests the judicial power in this court and in various other courts and officers. Whether in any instance a power which is properly called an executive power is vested in this court or in some other court, or whether powers which are properly called judicial powers are in some instances vested in the governor, we do not feel called upon to decide.

"We have in every instance in which the question has come before us refused to interfere with the executive or the legislative departments of the Government in respect to matters which are by the Constitution intrusted to those departments, and shall most assuredly decline to take jurisdiction of this proceeding if we cannot proceed without such interference. The department in which the Constitution vests a power must execute the power, and no other department can be allowed to interfere without destroying the balance of the Constitution and producing disorder and confusion. To show that this proceeding, if it resulted in the removal from office of the person who has obtained possession of the office of governor, would interfere with the executive department, the counsel for the respondent contended that the person filling the office of governor had authority to determine his right to the office.

"It is apparent that this alleged authority is not founded upon the Constitution or the laws, and can only be sustained by a resort to unlawful force. We dismiss the subject, therefore, from our consideration without further remark.

"It was further contended by the counsel for the respondent that the removal from office of the person filling the office of governor and substituting in his place another person would interfere with the executive department for the reason that the person so substituted would be the governor of the court; that it would, in that case, elect or create the governor. We are not able to perceive how such a result can be accomplished. As the case now appears upon the record, the respondent has no legal right to the office, and the relator has a perfect right to it by virtue of the clause of the Constitution above referred to. If the facts should remain unchanged, a judgment of ouster in this court against the respondent and a judgment establishing the right of the relator would not create a right in the latter, nor destroy one which belongs to the former; their rights are fixed by the Constitution, and the court, if it has jurisdiction of this proceeding, is the mere instrument provided by the Constitution to ascertain and enforce their rights as fixed by that instrument. Its office is the same as in all controversies between party and party, not to create rights, but to ascertain and enforce them.

"The same argument would apply with equal force to an information in the nature of a *quo warranto* against a sheriff or any other officer. We do not think it well founded.

"It was contended further by the counsel for the respondent that a judgment of ouster in this court against the respondent and a judgment in favor of the relator would interfere with the executive department, because it would transfer the office of governor from the former to the latter. We do not think this is a correct statement of the effect of a judgment of ouster in cases of this description. It seems clear to us that a judgment of ouster against the incumbent of an office in no way affects the office. Its duties are the same whether the original incumbent remains in it or whether another is substituted in his place. If a removal from an office by a judgment of ouster against the incumbent would affect the office itself, so, also would a removal by the death of the incumbent or his resignation; in all these cases we think the office is in no way affected; it remains as it was before the removal.

"It was contended by the counsel for the respondent that the question arising in this case is a political one, and not properly cognizable before a judicial tribunal. We cannot view the question in that light. As the case appears upon the record it is the intrusion of a person into a civil office without color of legal right, and although the office is of high dignity and importance it is still an office created by the constitution and it seems clear to us that this court has the same power to remove from it a person who has unlawfully intruded into it that it has to remove an intruder from any other office created by that instrument.

"It follows from the views which we have been compelled to take of the question that the motion must be denied."

Having thus affirmed its jurisdiction the court proceeded to examine the returns, and on finding that the relator had really received the highest number of legal votes cast, and was elected thereby in pursuance of the constitution, rendered a judgment of ouster against the respondent and in favor of the relator, who was subsequently sworn and assumed the functions of governor in pursuance thereof.

If the foregoing reasoning is correct nothing can be clearer than that the question of title to the office of President or Vice-President is strictly one of legal right arising under the Constitution and laws of the United States; that it is in no sense one of such a political character as to render it improper for the judiciary to determine it, and that Congress has no power, either with the aid of an "electoral commission" or otherwise, to deprive the possessor of that right except by withholding from the courts the necessary legal machinery for its enforcement, provided it can be shown that the judicial power conferred by the Constitution embraces such a question. That it does not admit of the slightest pretext for a doubt, if there is any meaning in human language. The Constitution expressly provides that the judicial power of the United States shall extend to *all cases*, in law and equity, arising under the Constitution or laws of the United States, and to all controversies between a State and citizens of another State, and between citizens of different States. The question therefore is simply whether a controversy between a person claiming title to the office of President and one who may be in possession of such office with respect to the latter's right thereto comes within the meaning of the word "case" as used in the Constitution. If there could be any controversy upon that point it has long since been settled by the highest tribunal known to our Government. A case arises within the meaning of the Constitution whenever any question respecting the Constitution, laws, or treaties of the United States has assumed such a form that the judicial power is capable of acting upon it; that is, when the subject is submitted to it by a party who asserts his rights in the form prescribed by law. It then becomes "a case." (Marshall, C. J., in *Osborn vs. Bank of the United States*, 9 Wheaton, 819.)

It would be useless to carry the discussion of this point further. A person possessing the constitutional qualifications and duly elected to the office of President or Vice-President has a *legal right* to the office. Congress prescribes the manner in which he shall seek a remedy when deprived of its possession. He presents his claim and demands possession in the mode prescribed. There is the "case." It arises directly out of the Constitution and laws of the United States, and the Constitution declares that the judicial power shall take cognizance of it. There is the whole matter. Why then tell the people of this country through a formal congressional *pronunciamiento* that no legal method can be contrived for testing the title and ouster from office one who may have been foisted into it through the fraudulent devices of a handful of political freebooters in flagrant violation of the plainest provisions of the Constitution, and in open defiance of an overwhelming majority both at the ballot-box and in the electoral college?

The committee say, "It may be true that the State of Maryland has been deprived of her just and full weight in deciding who was at the last election legally chosen President of the United States by reason of frauds perpetrated by returning boards in some of the States. It may also be true that their fraudulent acts were countenanced, encouraged, or participated in by some who enjoy high offices as the fruit of such frauds. It is due to the people of this generation and their posterity and to the principles on which our Government is founded that all evidence tending to establish such fraudulent practices should be calmly, carefully, and regularly examined." Certainly, but for what purpose?

"But your committee are of the opinion that the consequences of such examination, if it discloses guilt upon the part of any in high official position, should not be an effort to set aside the judgment of a former Congress as to the election of a President, but should be confined to the punishment by legal means of the offenders and the preservation of all the evidence of their guilt, so that the American people may be protected from a recurrence of the crime."

These two paragraphs suggest a variety of perplexing inquiries. If Maryland has really been defrauded by a band of outlaws in other States, why should she not have a remedy if one can be constitutionally devised? How can the calmest, most careful, or the most regular examination of the evidence of a great fraud help "the principles upon which our Government is founded" or benefit "the present generation or their posterity" if no step should be taken to provide a legal and peaceful remedy for either the fraud already perpetrated or any similar one that may take place in the future? What invests a judgment of Congress with such sanctity that it should not be set aside upon even the most sickening and disgusting evidences of corruption and official villainy, of which Congress was ignorant at the time, and especially when Congress had no power or authority under the Constitution to render any such judgment? How can the Government of the United States punish State officials for crimes against State laws although they may have been perpetrated to defraud the people of Maryland and other States of their rights under the Federal Constitution?

It might be very consoling to a man who had been robbed by a gang of foot-pads

on the highway to be told that all the evidences of their guilt should be calmly, carefully, and regularly examined, and "preserved" and "perpetuated" for the benefit of himself and his posterity, so that they might be wise enough to keep out of the way of robbers in the future, but that the beneficiary of the crime should nevertheless be permitted to hold on to the plunder. Yet that does not answer the great question, why no legal means should be provided by which the American people can be secure in their choice of a chief magistrate when it might be done so simply and so conveniently.

It may be said, however, that the courts would be powerless to enforce a judgment of ouster against an unlawful intruder into the presidential office. That being Commander-in-Chief of the Army and Navy, he would resist a motion by force. It was but recently, indeed, that a manifesto was issued by the head of one of the Executive Departments of the Government, in which it was intimated that even the mild purpose of the House of Representatives to inquire into the frauds to which it is alleged the present incumbent of the Presidency is indebted for the position he occupies would lead to civil war and ultimate "Mexicanization," although it might be "due to the people and their posterity and to the principles upon which our Government is founded" that it should proceed. Notwithstanding that intimation, however, the examination goes on "calmly, carefully, and regularly," for it has been understood for over two thousand years that "the ox knoweth his owner and the ass his master's crib."

Nevertheless it is true that a fraudulent tenant of the presidential office might resist the enforcement of a judgment of ouster against him by force, and so he might the execution of a judgment of removal on impeachment. But what then? Should the provision authorizing the impeachment of a President for crime be, for that reason, stricken from the Constitution? Yes; he might resist a judgment of removal in either case, whether rendered by the Senate or the Supreme Court, and if he should prevail, he would not only be a successful usurper but would probably be crowned by his triumphant retainers as dictator for life; but if he should fall he would perhaps be hung for treason, in pursuance of the judgment of the same court whose mandate he had formerly defied.

There is but little reason to apprehend any such fearful contingency, however, if the people of this country are satisfied that their Government is really, what it pretends to be, a Government of law and not a Government of force. Let them understand that their rights can be protected and their wrongs redressed under the law, that here the law is supreme and paramount, that there is no one so elevated as to be above it and none so low as to be beneath it, but that all men, the high and the low, the powerful and the weak, the proudest official and the humblest laborer, must alike submit to its mandates as pronounced by its chosen exponents, and they will be loyal to the law. Few if any will be found sufficiently fool-hardy or depraved to follow the falling fortunes of a fraudulent pretender; but all classes everywhere will render a cheerful and prompt allegiance to the supreme majesty of the popular will as authoritatively and formally expressed through its regularly constituted agencies.

But let Cabinet ministers instruct them that a usurper is the sole judge of his own title and may sustain his pretensions by an appeal to lawless force. Let their chosen representatives teach them by solemn resolution that possession is better than right and usurpation stronger than law; that the people have ceased to be sovereign, and that returning boards are supreme; that the law is voiceless, and the legal arm of their Government is palsied and withered; that there can be no peaceful redress for a fraud upon their most sacred and cherished rights, however palpable or flagitious, then indeed will they realize that law has abdicated and force been enthroned; then will they indeed become "Mexicanized." Force will be resorted to to redress wrongs as well as to perpetrate them. Deceived in the virtue of the ballot, recourse will be had to the sterner logic of the bullet; and after fraud shall have followed fraud and usurpation succeeded usurpation "anarchy will come like night and seal the fate" of this great Republic forever.

The undersigned has humbly asked to present these views, not that he would be understood as committing himself to all or any of the mere details of what is known as the Kimmel bill or to any other particular measure; nor yet because he feels any undue concern in relation to the tenure of the present occupants of the offices of President and Vice-President, about which so much solicitude seems to be entertained; but simply because he has felt it his duty to place on record his earnest protest, feeble as it may be, against the fearful doctrines embraced in the propositions submitted by the committee, for each member of which he would also record the acknowledgment of his profoundest respect.

J. PROCTOR KNOTT.

Mr. KNOTT. I desire to ask a parliamentary question. Will the views of the minority be printed with the report of the majority?

The SPEAKER. It is usual to print them together.

Mr. HARTRIDGE, Mr. STEPHENS of Georgia, and Mr. MAYHAM, by unanimous consent, were granted leave to print remarks on the same subject with minority report just read.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the adoption of the report of the committee of conference on the disagreeing votes of the two Houses on Senate bill No. 1016, which provides for distribution of the awards made under the convention between the United States of America and the Republic of Mexico, concluded on the 4th day of July, 1868.

It further announced the passage of a bill (S. No. 752) for the relief of W. H. Newman and L. A. Van Hoffman; in which concurrence was requested.

#### ARMY APPROPRIATION BILL.

Mr. HEWITT, of New York. I rise to make a privileged report from a committee of conference.

The SPEAKER. The gentleman from New York rises to present a conference report on the Army appropriation bill; and, as it is now near half past four o'clock, when under the order of the House a recess is to be taken, the Chair asks by unanimous consent the time be extended so as to dispose of the conference report for the purpose of having the bill sent at once to the enrolling clerks.

There was no objection, and it was ordered accordingly.

Mr. HEWITT, of New York. I send up the report of the committee of conference and ask that it be read.

The Clerk read 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. 4867) making appropriations for the support of the Army for the fiscal year ending June 30, 1879, 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 7, 8, 11, 13, 19, 21, 23, 25, 26, 27, and 63.

That the House recede from its disagreement to the amendments numbered 1, 2, 4, 5, 6, 10, 12, 13, 14, 15, 16, 17, 22, 24, 28, 29, 30, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 51, 53, 55, 62, and 64, and agree to the same.

That the House recede from its disagreement to the amendment numbered 3, and agree to the same, with an amendment as follows:

Strike out, in lines 12, 13, and 14, page 1 of the bill, as follows:

"Provided, however, That not exceeding five hundred recruits in addition thereto may be kept at recruiting stations, as the necessities of the service may require."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 9, and agree to the same, with an amendment as follows:

Strike out the word "seventy," wherever it occurs in said amendment, and insert in lieu thereof the word "fifteen."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 20, and agree to the same, with amendments as follows:

Strike out "eighty" and insert in lieu thereof "sixty;" strike out "headquarters" and insert in lieu thereof "storehouses."

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 31, and agree to the same, with an amendment as follows:

Strike out from said amendment, in line 1, the words "and fifty."

And the Senate agree to the same.

That the Senate recede from its amendment numbered 48, with an amendment changing the number of the section to "2;" and the House agree to the same.

That the House recede from its disagreement to the amendment numbered 49, and agree to the same, with an amendment as follows:

Substitute for the words stricken out the following:

SEC. 3. That hereafter all vacancies in the grade of second lieutenant shall be filled by appointment from the graduates of the Military Academy so long as any such remain in service unassigned; and any vacancies thereafter remaining shall be filled by promotion of meritorious non-commissioned officers of the Army, recommended under the provisions of the next section of this act: *Provided*, That all vacancies remaining after exhausting the two classes named may be filled by appointment of persons in civil life.

And the Senate agree to the same.

That the Senate recede from its amendment numbered 50, with an amendment changing the number of the section to "4;" and the House agree to the same.

That the Senate recede from its amendment numbered 52, with an amendment changing the number of the section to 5; and the House agree to the same.

That the Senate recede from its amendment numbered 54, and agree to the text proposed to be stricken out, amended as follows:

Strike out all after the word "otherwise," and insert in lieu thereof the following: "Unless the Secretary of War shall by an order in writing otherwise direct," and change the number of the section to "6."

And the House agree to the same.

That the House recede from its disagreement to the amendment numbered 56, and agree to the same, with an amendment as follows:

Strike out the word "commuting" and insert in lieu thereof "computing," and add at the end of said amendment the following: "And retirement. And the retired list shall hereafter be limited to four hundred in lieu of the number now fixed by law," and change the number of the section to "7."

And the Senate agree to the same.

That the Senate recede from its amendment numbered 57, and agree to the text proposed to be stricken out, amended as follows:

Strike out the word "fuel," in line 12, page 18 of the bill, and insert in lieu thereof the following: "allowance of or commutation for fuel to commissioned officers is hereby prohibited; but fuel;" and strike out in line 19, page 18 of the bill, the words "on the frontier" and insert in lieu thereof the words "west of the Mississippi River;" and change the number of the section to "8."

And the House agree to the same.

That the Senate recede from its amendment numbered 58, and agree to the text proposed to be stricken out by said amendment, amended as follows:

Strike out the word "nine," in line 13, page 19 of the bill, and insert in lieu thereof the word "ten;" strike out the words "fifty-four," in line 16, same page, and insert in lieu thereof the word "seventy;" strike out all after the word "month," in line 16, same page, down to the end of the paragraph, and change the number of the section to "9."

And the House agree to the same.

That the House recede from its disagreement to the amendment numbered 59, and agree to the same with amendments as follows:

In lieu of section 3 of said amendment substitute the following:

SEC. 10. That three Senators, to be appointed by the President of the Senate, and five members of the House, to be appointed by the Speaker of the House, are hereby constituted a joint committee to whom the whole subject-matter of reform and reorganization of the Army of the United States shall be, and is hereby, referred, and said committee shall have power to send for persons and papers, to employ a clerk and stenographer, and shall have leave to sit during the recess of Congress; and the Secretary of War is hereby authorized to detail, upon the request of the committee, one or more officers to act as secretaries thereof. The Public Printer shall print such documents as the committee may require.

Strike out, in line 1 of section 4 of said Senate amendment, the word "commission" and insert in lieu thereof the word "committee," and change the number of the section to "11."

Strike out, in line 1 of section 5 of said Senate amendment, the word "commission" and insert in lieu thereof the word "committee."

Strike out, in line 2 of said section 5, the word "direct" and insert in lieu thereof the word "select."

Strike out, in lines 4 and 5 of said section 5, the words "the next session, through the President of the United States," and insert in lieu thereof "January, 1879."

Strike out, in line 11 of said section 5, the word "commission," and insert in lieu thereof the word "committee."

Strike out, in line 12 of said section 5, the words "president of said commission," and insert in lieu thereof "chairman thereof," and change the number of the section to 12, and add a new section, as follows:

SEC. 13. That from and after the passage of this act all promotions in the Army, in each and every grade, arm, corps, and department thereof, shall cease, and thereafter no promotions or appointments shall be made to fill any vacancy which may occur, or be created therein, until after such report shall be made and acted upon by Congress: *Provided*, That this limitation shall not apply to the line of the Army below the rank of captain.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 60, and agree to the same, with an amendment as follows: Strike out in line 2 of the matter proposed to be inserted by the Senate the word "four" and insert in lieu thereof the word "five," and change the number of the section to "14;" and the Senate agree to the same.

That the House recede from its disagreement to the amendments numbered 61 and 66, and agree to the same, with amendments changing the numbers of the sections to 15 and 16, respectively; and the Senate agree to the same.

That the Senate recede from its amendment numbered 65, and agree to the text proposed to be stricken out by said amendment, with an amendment inserting after

the word "person," in line 22, page 22 of the bill, the word "willfully;" and the House agree to the same.

ABRAM S. HEWITT,

WM. A. J. SPARKS,

CHAS. FOSTER,

*Managers on the part of the House.*

A. A. SARGENT,

W. B. ALLISON,

R. E. WITHERS,

*Managers on the part of the Senate.*

The SPEAKER. The question is on agreeing to the report of the committee of conference.

Mr. HOOKER. It is impossible for the House to understand exactly by the numbers the character of the amendments as agreed upon by the conference committee.

The SPEAKER. The gentleman from New York [Mr. HEWITT] proposes to explain the recommendations of the committee of conference as to the various amendments.

Mr. HOOKER. I would like the gentleman to state specifically what the conference reports as to two matters: first, the number of the Army, and secondly how far they have modified the amendment offered by the gentleman from Kentucky [Mr. KNOTT] as to the use of the Army.

Mr. BUTLER. Has not the hour of taking a recess arrived?

The SPEAKER. Unanimous consent was given to extend the time of taking a recess until this bill should be disposed of.

Mr. HEWITT, of New York. When the conference committee upon this bill met they found themselves in opposition, in absolute antagonism, upon three points: first, the number of men of which the Army was to be composed; secondly, the question of the immediate reorganization of the Army; and third, the transfer of the Indian Bureau from the Interior to the War Department.

Now, the preponderance of votes in the Senate had been so great upon these three points as to be almost overwhelming, while the majority in the House on those three points was very narrow, running in one case down to 4 votes. We were confronted then with the question of the failure of the bill on an attempt to reconcile the Houses on these points. The failure of the bill would not have reduced the Army, for the Army exists now by law to the number of thirty thousand men. A failure of the bill would therefore have practically made it possible to have an increase of the Army. Neither would the failure of the bill have secured any reorganization. Neither would it have transferred the Indian Bureau from one Department to the other. Therefore there was nothing to be gained by its failure, and there was much to be lost in the necessity for an extra session, and the postponement of the reforms which we saw our way clear to secure.

The question was this: how by a concession of the points upon which the Senate were unwilling to yield we might secure the other reforms for which we had contended and which were contained in our bill. We therefore yielded the number of men and they stand in the report of the conference committee at twenty-five thousand.

On the question of reorganization we yielded the immediate attempt to reorganize the Army, but we procured in lieu thereof a joint committee of the Senate and the House, to be composed of five members of the House and three members of the Senate, thus securing the control of the committee to the House. And in order that the Army might not be increased in any direction pending the consideration of this question by the joint committee we procured the further stipulation that, pending the action of the committee and pending the action of Congress upon it, there should be no promotion in any staff corps or department, and no appointment whatever to vacancies except in grades in the line below that of captain, in order that the company organizations might not suffer. This, therefore, arrests the Army where it is, and it must stay there as in the jaws of a vise until by the joint action of the two Houses a scheme of reorganization is agreed to, and in devising this scheme the preponderance of power is secured to the House.

Lastly, as to the Indian Bureau we have provided for a reference of that question also to a joint committee. Upon that joint committee there are to be five members of the House and three of the Senate. They are also empowered to sit during the recess, take testimony, and make a proper report and scheme of transfer, if they shall conclude that it ought to be made.

By giving up some of the points for which we had contended, we have secured the realization of other reforms in an early future, which we could not have done if the bill had been allowed to fail. In return for these concessions, the Senate conceded, in the first place, all the reforms which we had demanded as to the allowances of officers for fuel, forage, and quarters, and in addition to that they consented to placing one hundred officers, unfit for duty, upon the retired list, by which a saving of about \$125,000 a year will be effected. This added to the saving in the allowances will make an aggregate of savings from \$750,000 to \$1,000,000, and this we secure in the coming fiscal year and which we could not have had if the bill had been allowed to fail.

This saving alone is more than equal to the economy which would result from a reduction of the Army to 20,500 men as proposed in the House bill. We have thus secured a full money equivalent for the concession of 25,000 men for the short period which will elapse before

the scheme of reorganization will be matured by the joint committee and acted upon by Congress.

But these are all minor points and insignificant questions compared with the great principle which was incorporated by the House in the bill in reference to the use of the Army in time of peace. The Senate had already conceded what they called and what we might accept as the principle; but they had stricken out the penalty and had stricken out the word "expressly," so that the Army might be used in all cases where implied authority might be inferred. The House committee planted themselves firmly upon the doctrine that rather than yield this fundamental principle, for which for three years this House had struggled, they would allow the bill to fail—notwithstanding the reforms which we had secured; regarding these reforms as of but little consequence alongside the great principle that the Army of the United States in time of peace should be under the control of Congress and obedient to its laws. After a long and protracted negotiation the Senate committee have conceded that principle in all its length and breadth, including the penalty which the Senate had stricken out. We bring you back, therefore, a report with the alteration of a single word, which the lawyers assure me is proper to be made, restoring to this bill the principle for which we have contended so long, and which is so vital to secure the rights and liberties of the people.

I will read the section as it now stands:

From and after the passage of this act it shall not be lawful to employ any part of the Army of the United States as a *posse comitatus*, or otherwise, for the purpose of executing the laws, except in such cases and under such circumstances as such employment of said force may be expressly authorized by the Constitution or by act of Congress; and no money appropriated by this act shall be used to pay any of the expenses incurred in the employment of any troops in violation of this section; and any person willfully violating the provisions of this section shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding \$10,000 or imprisonment not exceeding two years, or by both such fine and imprisonment.

Thus have we this day secured to the people of this country the same great protection against a standing army which cost a struggle of two hundred years for the Commons of England to secure for the British people. I move the previous question.

Mr. HOUSE. I wish to ask the gentleman a question.

Mr. HEWITT, of New York. I will be very glad to answer it if I can.

Mr. HOUSE. In the clause relating to penalties the language is, "and any person willfully violating the provisions of this section." Was that in the House bill?

Mr. HEWITT, of New York. It was not, but it is the opinion of leading lawyers that it is a proper word to be inserted there, and would be implied in the original language of the bill.

Mr. HOUSE. Then every one violating that law will shelter himself under the command of an officer, if you use that word.

Mr. HEWITT, of New York. I demand the previous question.

Mr. HOOKER. I ask for a separate vote on the amendments, especially on the proposition in relation to the reduction of the Army.

The SPEAKER. That is not in order.

Mr. HOOKER. I rise to a parliamentary inquiry. Has the House not a right to have a separate vote on the amendments?

The SPEAKER. It has not. The question is on agreeing to the report of the committee of conference, upon which the gentleman from New York demands the previous question.

The previous question was seconded and the main question ordered.

Mr. HALE moved to reconsider the vote by which the main question was ordered; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. HOOKER. I call for the yeas and nays on agreeing to the report of the committee of conference.

The yeas and nays were ordered.

The question was taken; and there were—yeas 154, nays 58, not voting 79; as follows:

YEAS—154.

Acklen,	Cannon,	Ewing,	Landers,
Aldrich,	Chalmers,	Forney,	Lapham,
Atkins,	Clafin,	Gardner,	Lathrop,
Bagley,	Clark, Alvah A.	Giddings,	Ligon,
Baker, John H.	Clark, Rush	Hale,	Lindsey,
Baker, William H.	Clymer,	Hanna,	Loring,
Banks,	Cole,	Harmer,	Lynde,
Banning,	Collins,	Harris, Benj. W.	Maish,
Bayne,	Conger,	Hartzell,	Marsh,
Beebe,	Covert,	Haskell,	Mayham,
Benedict,	Cox, Jacob D.	Hatcher,	McKinley,
Bisbee,	Crapo,	Hayes,	Metcalfe,
Blair,	Cravens,	Henry,	Mitchell,
Blount,	Cummings,	Herbert,	Monroe,
Bouck,	Cutler,	Hewitt, Abram S.	Morgan,
Boyd,	Danford,	Hewitt, G. W.	Morrison,
Bragg,	Davis, Horace	Humphrey,	Morse,
Brewer,	Dean,	Hungerford,	Muller,
Bridges,	Deering,	Itnier,	Norcross,
Briggs,	Dickey,	Jones, Frank	Oliver,
Bright,	Dunnell,	Jones, James T.	O'Neill,
Browne,	Dwight,	Jones, John S.	Overton,
Burchard,	Eames,	Keifer,	Page,
Cain,	Eden,	Keightley,	Patterson, G. W.
Calkins,	Errett,	Kelley,	Patterson, T. M.
Campbell,	Evans, I. Newton	Ketcham,	Peddle,
Candler,	Evins, John H.	Killinger,	Phillips,

Pollard,	Ryan,	Stephens,	Welch,
Potter,	Sampson,	Stewart,	White, Harry
Pound,	Sapp,	Stone, Joseph C.	Williams, A. S.
Price,	Saxler,	Strait,	Williams, Andrew
Rainey,	Schleicher,	Thompson,	Williams, C. G.
Randolph,	Shallenberger,	Throckmorton,	Williams, James
Rea,	Sinnickson,	Townsend, Amos	Williams, Benjamin A.
Reagan,	Smalls,	Townsend, Martin I.	Willits,
Reed,	Smith, A. Herr	Wait,	Wood,
Reilly,	Sparks,	Warner,	Young.
Rice, William W.	Starin,	Watson,	
Robinson, G. D.	Stenger,		

NAYS—58.

Blackburn,	Durham,	Hunton,	Singleton,
Boone,	Elam,	Kenna,	Smith, William E.
Brogden,	Felton,	Kimmel,	Southard,
Butler,	Finley,	Knott,	Springer,
Cabell,	Franklin,	McKenzie,	Steele,
Caldwell, John W.	Garth,	McMahon,	Townshend, R. W.
Caldwell, W. P.	Goode,	Muldrow,	Tucker,
Clark of Missouri,	Hamilton,	Pridemore,	Turner,
Clarke of Kentucky,	Hardenbergh,	Rice, Americus V.	Vance,
Cook,	Harris, Henry R.	Riddle,	Veeder,
Cox, Samuel S.	Harris, John T.	Robbins,	Waddell,
Crittenden,	Harrison,	Roberts,	Whithorne,
Davis, Joseph J.	Hartridge,	Robertson,	Yeates.
Dibrell,	Hooker,	Ross,	
Douglas,	House,	Scales,	

NOT VOTING—79.

Aiken,	Ellis,	Hunter,	Sexton,
Bacon,	Ellsworth,	James,	Shelley,
Ballou,	Evans, James L.	Jorgensen,	Siemons,
Bell,	Fort,	Joyce,	Stono, John W.
Bicknell,	Foster,	Knapp,	Swann,
Bland,	Freeman,	Lockwood,	Thornburgh,
Bliss,	Frye,	Luttrell,	Tipton,
Brentano,	Fuller,	Mackey,	Turney,
Buckner,	Garfield,	Manning,	Van Vorhes,
Bundy,	Gause,	Martin,	Walker,
Burdick,	Gibson,	McCook,	Walsh,
Camp,	Glover,	McGowan,	White, Michael D.
Carlisle,	Gunter,	Mills,	Wigginton,
Caswell,	Hart,	Money,	Williams, Jere N.
Chittenden,	Hazelton,	Neal,	Williams, Richard
Cobb,	Hendee,	Phelps,	Willis, Albert S.
Culbertson,	Henderson,	Powers,	Wilson,
Davidson,	Henkle,	Pugh,	Wren,
Denison,	Hiscock,	Quinn,	Wright.
Eickhoff,	Hubbell,	Robinson, M. S.	

So the report of the committee of conference was agreed to.

During the roll-call the following announcements were made:

Mr. FORT. I am paired with Mr. MANNING, of Mississippi.

Mr. PUGH. I am paired with Mr. MARTIN, of West Virginia. If he were here, he would vote "no" and I should vote "ay."

Mr. HEWITT, of New York, moved to reconsider the vote by which the report was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States was communicated by Mr. PRUDEN, one of his secretaries, who also announced that the President had approved bills and joint resolutions of the following titles:

An act (H. R. No. 5117) making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1878, and prior years, and for those heretofore treated as permanent, for reappropriations, and for other purposes;

An act (H. R. No. 1896) for the relief of Nancy A. Herrick, of Rochester, New York;

An act (H. R. No. 888) for the relief of James McGregor;

An act (H. R. No. 3974) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1879;

An act (H. R. No. 1271) establishing the salaries to be paid the collectors of customs of Plymouth and Nantucket, Massachusetts;

An act (H. R. No. 4943) to authorize the commissioners of the District of Columbia to make and enforce regulations relative to the sale of coal, and also building regulations;

An act (H. R. No. 2057) to amend the charter of the Mutual Fire Insurance Company of the District of Columbia;

An act (H. R. No. 2319) to provide for the appointment of a district judge for the western district of Tennessee, and for other purposes;

An act (H. R. No. 5066) authorizing the Solicitor of the Treasury, by and with the consent of the Secretary of War, to cancel certain contracts for the sale of lots of land made at Harper's Ferry in the year 1869 by the United States, to resell the same, and sell or lease all other real estate and riparian rights now owned by the United States at Harper's Ferry, West Virginia;

A joint resolution (H. R. No. 193) to allow the Secretary of the Navy to purchase plate-iron and other material used in the construction of steam-boilers for the United States Navy;

A joint resolution (H. R. No. 182) for the benefit of the penny-lunch house of the city of Washington, District of Columbia;

A joint resolution (H. R. No. 152) to enable the joint commission to carry into effect the act of Congress providing for the completion of the Washington Monument;

An act (H. R. No 1892) for the relief of Mrs. Amanda Rains, of Illinois;

An act (H. R. No. 3283) for the relief of Andrew J. Worth;

An act (H. R. No. 4525) for the relief of Charles O. Allibone;

An act (H. R. No. 3119) for the relief of John J. Thomas;

An act (H. R. No. 1551) for the relief of Mrs. Emma A. Porch, of Centretown, Missouri;

An act (H. R. No. 3071) for the relief of Samuel R. Atwell, late postmaster at Winchester, Virginia;

An act (H. R. No. 1889) for the relief of David W. Cheeseman, of Lake City, in Lake County, in the State of Oregon;

An act (H. R. No. 1315) for the relief of C. H. Walker, postmaster at Frostburgh, in Alleghany County, Maryland;

An act (H. R. No. 150) for the relief of William McIndoe, postmaster at Lonaconing, in Alleghany County, Maryland;

An act (H. R. No. 2234) for the relief of Joseph F. Wilson;

An act (H. R. No. 127) for the relief of Daniel Compton, of Troy, Bradford County, Pennsylvania;

An act (H. R. No. 134) for the relief of Jacob G. Croman, of Dickinson, Cumberland County, Pennsylvania;

An act (H. R. No. 519) granting a pension to Mrs. Ellen B. Foster, widow of Edwin R. Foster, deceased, late first lieutenant of Company G, in the Eighteenth Illinois Infantry Volunteers;

An act (H. R. No. 522) granting a pension to James B. Gillespie, late Company I, One hundred and twentieth Regiment Illinois Infantry Volunteers;

An act (H. R. No. 844) granting a pension to Mary Martin, mother by adoption of James P. Martin, late a private in the Fifth Regiment Vermont Volunteers;

An act (H. R. No. 1175) granting a pension to George Silvers, private Company E, Fifty-seventh Regiment United States Volunteers;

An act (H. R. No. 1308) for the relief of Daniel Small, a soldier of the war of 1812;

An act (H. R. No. 3106) granting a pension to Daniel W. Martin, a private in Company A, Fifty-seventh Ohio Volunteers;

An act (H. R. No. 3109) granting a pension to Margaret Kenah, widow of Patrick Kenah, late a private of Company D, First United States Artillery;

An act (H. R. No. 3564) granting a pension to Mrs. Isabell Dunbar, widow of Daniel Dunbar, late first engineer on steamer Victor No. 2;

An act (H. R. No. 4376) granting a pension to James G. Williams;

An act (H. R. No. 4373) granting a pension to Mary J. Lebow;

An act (H. R. No. 4382) granting a pension to Jonathan Roberts;

An act (H. R. No. 4377) granting a pension to William Cogswell;

An act (H. R. No. 4367) granting a pension to Mrs. Sarah A. Bell;

An act (H. R. No. 4362) granting a pension to Cynthia A. Mizelle;

An act (H. R. No. 4361) granting a pension to Elizabeth Winters;

An act (H. R. No. 3578) granting a pension to Julia J. Wheeler;

An act (H. R. No. 3579) granting a pension to Philip Henry;

An act (H. R. No. 3573) granting a pension to Charles G. Galezio;

An act (H. R. No. 4387) granting a pension to James C. Bates;

An act (H. R. No. 2936) granting a pension to George R. Whitehead;

An act (H. R. No. 710) granting a pension to Jane D. Cotten;

An act (H. R. No. 3103) for the relief of Oliver Yake, of Sanilac County, Michigan;

An act (H. R. No. 1688) to restore the name of Hamilton Ryne to the pension-rolls;

Joint resolution (H. R. No. 81) asking for investigation in the case of Edward O'M. Condon;

An act (H. R. No. 739) for the relief of Henry Plowman;

An act (H. R. No. 977) to relieve the political disabilities of John Green, sr., of Alabama;

An act (H. R. No. 1638) to remove the political disabilities of Albert Miller Lea, of Navarro County, Texas;

An act (H. R. No. 1897) to remove the political disabilities of W. E. Evans, a citizen of Louisiana;

An act (H. R. No. 3276) to remove the political disabilities of William C. Whittle, of Virginia;

An act (H. R. No. 4550) to remove the political disabilities of Thomas L. Moore, of the State of Virginia;

An act (H. R. No. 3978) to authorize the Baratavia Ship-Canal Company to construct and operate a ship-canal from New Orleans to the Gulf of Mexico, through the lands and waters of the United States, and to grant to said company the right of way for that purpose;

An act (H. R. No. 2242) for the relief of William T. Malster, of Baltimore, Maryland;

An act (H. R. No. 224) for the relief of Thomas A. Nicholson;

An act (H. R. No. 4568) to remove the political disabilities of Robert T. Chapman, of Wharton County, Texas;

An act (H. R. No. 1434) granting a pension to John Langland, late a private of Company B, First Michigan Sharpshooters;

An act (H. R. No. 2226) granting a pension to Charles H. Bugbee, late a private in Company A, Third Vermont Volunteers;

An act (H. R. No. 3166) granting a pension to Agatha O'Brien, widow of John P. J. O'Brien, brevet major United States Army;

An act (H. R. No. 3314) to remove the political disabilities of John T. Mason, of Maryland;

An act (H. R. No. 4945) for the preservation of game and protection of birds in the District of Columbia;

An act (H. R. No. 4802) for the construction of a public building for use by the United States Government in the city of New York;

An act (H. R. No. 3548) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871;

An act (H. R. No. 4616) to incorporate the National Fair Grounds Association;

An act (H. R. No. 3708) to regulate the practice of pharmacy in the District of Columbia;

An act (H. R. No. 699) to restore certain lands in Iowa to settlement under the homestead law, and for other purposes; and

An act (H. R. No. 627) to remove the charge of desertion from the military record of Alfred Rouland.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate further insisted on its amendments to the bill (H. R. No. 4104) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes, disagreed to by the House of Representatives, and asked for a further conference upon the disagreeing votes of the two Houses thereon; and had appointed Mr. WINDOM, Mr. ALLISON, and Mr. BECK conferees on the part of the Senate.

## LEAVE TO PRINT.

The SPEAKER. The gentleman from New York [Mr. MULLER] and the gentleman from Tennessee [Mr. YOUNG] ask leave to print some remarks. Is there objection?

Mr. SPRINGER. I move that general leave be given to print remarks upon the report of the Judiciary Committee on the presidential election.

There was no objection, and Mr. SPRINGER's motion was agreed to.

Mr. DUNNELL. I ask unanimous consent that the session this evening begin at eight o'clock instead of at half past seven o'clock. [Cries of "Object!"]

Mr. CANNON, of Illinois, I desire to present a post-route bill.

The SPEAKER. The Chair cannot entertain that now, as the session was only extended for the purpose of completing action on the Army bill.

Mr. DUNNELL. Was objection made to my proposition?

The SPEAKER. There was objection.

Mr. TUCKER. We cannot sit beyond twelve o'clock to-night. [Loud cries of "Why not?"] I suppose that everybody will understand why we cannot sit beyond twelve o'clock. I think that the Representatives of a people confessedly Christian ought not to sit into a day that is consecrated to God. They have never done it when the necessity was self-imposed.

The House then (at five o'clock and ten minutes p. m.) took a recess until half past seven o'clock p. m.

## EVENING SESSION.

The recess having expired, the House reassembled at seven o'clock and thirty minutes p. m.

## ORDER OF BUSINESS.

Mr. PHELPS. I ask unanimous consent to introduce a bill for reference.

Mr. EDEN. I have no objection to the introduction of bills for reference, but I think I must object to anything out of the regular order for present action.

## DUTY ON IMPORTED SUGARS.

Mr. PHELPS, by unanimous consent, introduced a bill (H. R. No. 5210) to amend schedule G of the law relating to the duties on imports and to establish a uniform rate of duty on imported sugars; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

## WILLIAM W. HUBBELL.

Mr. VANCE, by unanimous consent, from the Committee on Patents, reported back the petition of William W. Hubbell, asking Congress to purchase his patent muskets for the use of the United States Army and Navy, and moved that the committee be discharged from its further consideration and that it be referred to the Committee on Military Affairs.

The motion was agreed to.

## TELEGRAPHIC COMMUNICATION WITH FOREIGN COUNTRIES.

Mr. MONROE. I ask unanimous consent to take Senate bill No. 861 from the Speaker's table and refer it to the Committee on Foreign Affairs. It relates to the subject of telegraphic communication between the United States and foreign countries, which subject is now before that committee.

There was no objection, and the bill (S. No. 861) relative to telegraphic communication between the United States and foreign countries was taken from the Speaker's table, read a first and second time, and referred to the Committee on Foreign Affairs, not to be brought back on a motion to reconsider.

## TENTS FOR ALABAMA VOLUNTEERS.

Mr. HERBERT. I ask unanimous consent to take from the Speaker's table, for action at this time, Senate joint resolution No. 39, authorizing the Secretary of War to turn over to the governor of Alabama such tents, polls, and pins as he may require for the use of the volunteers of the State at their summer encampment.

There was no objection, and the joint resolution was taken from the Speaker's table, read three several times, and passed.

Mr. HERBERT moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PAY OF EMPLOYÉS OF CONGRESS.

Mr. ROBERTS. I ask unanimous consent to introduce a joint resolution in regard to the pay of the employés of Congress. It is the usual and customary resolution, and I know there will be no objection to it.

The joint resolution provides that the twenty-seven clerks of the Senate committees and the twenty-one clerks of the House committees, authorized by the act of March 3, 1877, and all other committee-clerks, all experts, messengers, pages, and other employés of the Senate and House of Representatives shall be paid their full salaries to June 30, inclusive, out of the respective funds from which they have heretofore been paid or from any other unexpended funds, and directs the Clerk of the House and disbursing officer of the Senate to make the payments for June as soon as practicable after the adjournment of Congress.

Mr. BUTLER. I desire to make an amendment to that. Why not make it up to the 1st of July?

Mr. PRICE. It is up to the 30th of June, pretty near the 1st of July. [Laughter.]

Mr. BUTLER. All right; I understood it was the 20th of June.

Mr. ATKINS. Does this mean from the adjournment of the present session up to the end of June?

Mr. ROBERTS. It does.

There being no objection, the joint resolution (H. R. No. 195) in relation to the pay of committee-clerks and other employés of the Senate and House of Representatives was received, read three several times, and passed.

#### ENROLLED BILLS SIGNED.

Mr. RAINEY, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

- An act (S. No. 27) for the relief of Amos B. Ferguson;
- An act (S. No. 76) granting a pension to Mary Ann McFarland;
- An act (S. No. 221) granting a pension to Mary Kirby Smith Eaton during her widowhood;
- An act (S. No. 334) for the relief of William Bowlin, late of Company L, Second Arkansas Cavalry;
- An act (S. No. 394) to place the name of Daniel H. Kelly upon the muster-roll of Company F, Second Tennessee Infantry;
- An act (S. No. 535) granting an increase of pension to Theodore Gardner;
- An act (S. No. 547) granting a pension to Caroline M. Egbert;
- An act (S. No. 594) for the relief of William W. Speirs, late assistant surgeon United States Army;
- An act (S. No. 686) granting a pension to Mary Emma Baptist and Daisy Baptist, minor child;
- An act (S. No. 704) granting a pension to Grace Aikins;
- An act (S. No. 712) granting a pension to William London;
- An act (S. No. 744) granting a pension to Sarah McCooley;
- An act (S. No. 849) granting a pension to James C. Downer;
- An act (S. No. 871) granting a pension to William Emerson;
- An act (S. No. 902) for the relief of Carl Jussen;
- An act (S. No. 1029) for the relief of John M. Lord;
- An act (S. No. 1068) for the relief of T. B. Kelly;
- An act (S. No. 1165) granting a pension to Mary McAdams;
- An act (S. No. 1206) granting a pension to Emily Hughes, *alias* Burch;
- An act (S. No. 1275) granting a pension to John Charles Black;
- An act (S. No. 1322) granting a pension to John G. Merritt;
- An act (H. R. No. 82) for the relief of Alexander Anderson, late first lieutenant Fourteenth New York Volunteer Cavalry;
- An act (H. R. No. 234) for the relief of John F. Andrews, postmaster at Washington, Georgia;
- An act (H. R. No. 720) for the relief of John Eaton;
- An act (H. R. No. 1966) for the relief of J. H. Duncan, postmaster at Elberton, Georgia;
- An act (H. R. No. 2396) for the relief of John E. Williamson;
- An act (H. R. No. 3980) to confirm the title to the northeast quarter of the northwest quarter of section 7, township 81 north, range 4 east of the fifth principal meridian, Clinton County, Iowa;
- An act (H. R. No. 3565) granting a pension to Dr. P. F. Reuss, late surgeon Seventh New York Volunteers;
- An act (H. R. No. 4976) to increase the pension of certain pensioned soldiers and sailors who have lost both their hands or both their feet or the sight of both eyes in the service of the country; and
- A joint resolution (H. R. No. 169) authorizing the payment of the accounts of Lieutenant James T. Leary, an insane officer.

#### TESTING IRON, STEEL, ETC.

The SPEAKER laid before the House the following message from the President of the United States; which was laid on the table and ordered to be printed:

To the House of Representatives:

I have the honor to transmit herewith the report of the board for testing iron,

steel, and other metals, as requested in the resolution of the House of Representatives dated April 27, 1878.

R. B. HAYES.

EXECUTIVE MANSION, June 15, 1878.

#### LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—  
To Mr. ROBINSON, of Indiana, for the remainder of the session, on account of sickness;  
To Mr. GUNTER for the remainder of the session, on account of illness in his family;  
To Mr. THOMPSON for the remainder of the session, on account of important business;  
To Mr. WRIGHT, for the remainder of the session;  
To Mr. TIPTON, for the remainder of the session;  
To Mr. SWANN, for six days;  
To Mr. GLOVER, indefinitely, on account of sickness; and  
To Mr. BENEDICT, for the remainder of the session, on account of important business.

#### LEAVE TO PRINT.

The SPEAKER. The gentleman from Ohio, [Mr. EWING,] under instructions unanimously given him by the Committee on Banking and Currency, asks consent to have printed the interviews with that committee on the question of resumption of specie payments.

There being no objection, leave was granted.

#### WITHDRAWAL OF PAPERS.

Leave for withdrawal of papers was granted in the following cases, no adverse reports having been made:

- To Mr. MCMAHON, in the case of Robert Dickey;
- To Mr. BRENTANO, in the case of Herman Flock;
- To Mr. EVANS, of Pennsylvania, in the case of Mrs. R. F. Hall; and
- To Mr. BRIGHT, in the case of William Brindle.

#### ALLEGED FRAUDS IN PRESIDENTIAL ELECTION.

The SPEAKER laid before the House the following message from the President of the United States:

DEPARTMENT OF STATE,  
Washington, June 13, 1878.

Sir: I had the honor to receive and lay before the President, for his instruction upon the same, the following resolution, transmitted to me from the special committee of the House of Representatives, of which Hon. CLARKSON N. POTTER is chairman:

"Resolved, That the Secretary of State be requested to furnish this committee all the original communications, whether written, printed, or telegraphic, now in or which may have been in the office of the Secretary of State, and which may be under his control, received by him or other person in the State Department, purporting to come from either or all of the members of a commission of which Hon. Wayne McVeigh and Hon. James H. Harlan were members; which commission was sent by the President to New Orleans, Louisiana, in April, 1877; and also certified copies of all communications, whether written, printed, or telegraphic, delivered to or sent to said commission, or to all or either of the members of said commission, from the State Department or the President, which passed through said department."

While the President does not consider that the publication of the documents sought for by the resolution is at all incompatible with the public interests, yet he is unable to perceive that the subject in respect of which this information is sought is within the authority of inquiry imparted to the committee by the House of Representatives. He has upon this view of the matter directed me to communicate to the House of Representatives the documents desired by the resolution of the committee for such disposition as may seem to the House suitable.

I am, with great respect, your obedient servant,

WM. M. EVARTS.

To Hon. SAMUEL J. RANDALL,  
*Speaker of the House of Representatives.*

Mr. BUTLER. I move that this message, with the accompanying documents, be referred to the select committee of investigation on this subject, and be ordered to be printed.

The motion was agreed to.

#### EMPLOYÉS IN THE TREASURY DEPARTMENT.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting, in reply to a resolution of the House, the names of the employés in that Department who were honorably discharged from the military or naval service of the Government by reason of disability; also the names of employés who served in the military service of the Government; which was referred to the Committee on Civil-Service Reform.

Mr. BURCHARD. I move to reconsider the various votes by which references have been made this evening; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### FINAL ADJOURNMENT.

Mr. WOOD. I rise to a privileged question. I have reason to believe that the Senate will concur in the resolution which I now offer, naming Tuesday next at four o'clock p. m. as the time for the final adjournment.

The Clerk read the resolution, as follows:

Resolved, (The Senate concurring,) That the time fixed by the two Houses of Congress for the final adjournment of the second session of the Forty-fifth Congress is hereby extended to four o'clock p. m., on Tuesday, the 18th day of June current; and at that time the President of the Senate and the Speaker of the House of Representatives shall adjourn their respective Houses without day.

The resolution was agreed to.

Mr. WOOD moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POST-ROUTE BILL.

The SPEAKER announced the appointment of Mr. CANNON, of Illinois, Mr. MORRISON, and Mr. WADDELL as the conferees on the part of the House upon the post-route bill.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. ATKINS. I rise to make a privileged report, which I send to the desk.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 4104, making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes, having met, after full and free conference, have been unable to agree.

J. D. C. ATKINS,  
M. J. DURHAM,  
CHAS. FOSTER,

Managers on the part of the House of Representatives.

WILLIAM WINDOM,  
WILLIAM B. ALLISON,  
JAMES B. BECK.

Managers on the part of the Senate.

Mr. ATKINS. Mr. Speaker, it would appear from the reading of this report that there has been a general disagreement, but I will state to the House, as I stated the other day, that there are only two points of difference, I might say but one point of any materiality, because the other, which is a small point of difference, the Senate are willing to concede. The real matter of controversy between the conferees of the two Houses is this: we insist upon the salaries of the Senate employes being placed at rates corresponding with the salaries of our employes. They insist upon fixing the compensation of their own employes. That is the point of difference. It is for this House to determine. I must say, as a member of the conference committee, I am not willing, so far as I am concerned, to concede the Senate employes should be paid more than our own. I made that statement the other day, and made it in good faith. I was in earnest. I am in earnest now. I can see no good reason for this unjust discrimination. This committee comes before the House to-night and desires the question to be settled. I should like to see the question settled.

Mr. MILLS. Does the Senate object to paying our employes the same as their own?

Mr. ATKINS. Not at all.

Mr. EDEN. That question is not involved.

Mr. ATKINS. As the gentleman from Tennessee has said that question is not at all involved, I have no doubt the Senate would be willing to pay our employes just as much as we desire to pay them.

Mr. EDEN. Twice as much as they get now.

Mr. ATKINS. They do not think of the question of money.

Mr. BEEBE. Will the gentleman from Tennessee yield to me?

Mr. ATKINS. I will.

Mr. BEEBE. I ask the gentleman to yield to me for the purpose of getting the matter before the House, and in order to reach some sort of determination I ask to introduce the resolution I send to the Clerk's desk.

Mr. ATKINS. I will hear it read.

The Clerk read as follows:

*Resolved*, It is the opinion of this House that its conferees on the legislative, executive, and judicial appropriation bill should under the circumstances yield to the conferees on the part of the Senate the claim of the Senate in said bill as to the compensation of its own officers and employes.

Mr. ATKINS. I take no offense whatever at the gentleman from New York for offering that resolution. I am willing the House should test it. In so far as I am concerned I rather wish they would do it. I say for myself I am utterly opposed to the Senate being allowed to fix the compensation of its own employes. I believe the fundamental principle which lies at the bottom of this whole matter is that the House is given the right to say what the salaries of the Senate employes shall be, just as much as we have the right to say what shall be the salaries of Senators. There is as much justice for the Senate fixing their own salaries at \$10,000 while ours remain at \$5,000 and to say the House shall submit to that discrimination as there is to say the salaries of their employes shall be so much higher than our own employes. I am opposed to the injustice of this discrimination.

Mr. BEEBE. I ask the gentleman from Tennessee to yield to me a moment before he concludes. [Cries of "Vote!" "Vote!" "Vote!"] I desire to say one word only. [Cries of "Vote!"] I wish to say one word in justice to myself, and the gentleman from Tennessee I understand will yield to me.

Mr. ATKINS. I will.

Mr. BEEBE. I shall not take the time of the House to any great length. I simply desire to say I do not concur in the idea that this House has the right to control the expenditures of the Senate. We have the right under the Constitution to originate revenue bills and appropriation bills, if you please, and when we originate them the Constitution says the Senate shall have the right to amend as in other cases. The right of control is quite a different matter from the right to originate. I now ask for a vote on my resolution.

Mr. CLARK, of Missouri. Let the resolution be again read.

The resolution was again read.

Mr. DUNNELL. I should like to ask a question. [Cries of "Vote!" "Vote!"]

Mr. BEEBE. I demanded the previous question with the consent of the gentleman from Tennessee.

Mr. DUNNELL. I have the right to ask a question.

The SPEAKER. Not after the previous question is demanded.

Mr. HARRIS, of Virginia. The House is dividing on the question, and debate is not in order.

Mr. BRAGG. The House is in progress of division.

Mr. BEEBE. I demand the previous question.

Mr. BRAGG. The House has voted by voice and a division has been called, the Chair having decided the "ayes" had it. Now can the gentleman demand the previous question?

Mr. SAYLER. The gentleman demanded it before he took his seat.

Mr. BEEBE. The gentleman from Tennessee yielded to me to demand the previous question before taking my seat.

Mr. HARRIS, of Virginia. The Speaker submitted the question and announced the "ayes" had it, and then a division was demanded. I make the point the gentleman cannot interrupt a division of the House.

The House divided; and there were—ayes 71, noes 48.

Mr. MAISH demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 116, nays 94, not voting 81; as follows:

YEAS—116.

Acklen,	Culberson,	Lindsey,	Ryan,
Aldrich,	Cutler,	Loring,	Sapp,
Bagley,	Danford,	Marsh,	Shallenberger,
Baker, John H.	Deering,	Mayham,	Sinnickson,
Baker, William H.	Denison,	McCook,	Smalls,
Bayne,	Eames,	McGowan,	Smith, A. Herr
Beebe,	Errett,	McKinley,	Starin,
Bicknell,	Evans, I. Newton	Metcalf,	Stephens,
Bisbee,	Evans, James L.	Mills,	Stewart,
Blair,	Frye,	Mitchell,	Stone, John W.
Bliss,	Gardner,	Monroe,	Stone, Joseph C.
Bouck,	Hale,	Morgan,	Strait,
Brewer,	Hanna,	Neal,	Thompson,
Briggs,	Harnet,	Norcross,	Townsend, Amos
Bright,	Harris, Benj. W.	O'Neill,	Townsend, M. I.
Brogden,	Haskell,	Overton,	Tucker,
Browne,	Hayes,	Page,	Veeder,
Burchard,	Henry,	Patterson, G. W.	Wait,
Burdick,	Hubbell,	Phelps,	Walker,
Butler,	Hunter,	Phillips,	Ward,
Cain,	Hungerford,	Pollard,	Warner,
Cannon,	Ittner,	Price,	White, Harry
Caswell,	Jones, John S.	Pridemore,	White, Michael D.
Chalmers,	Joyce,	Pugh,	Williams, A. S.
Chittenden,	Keifer,	Rainey,	Williams, Andrew
Cole,	Keightley,	Randolph,	Williams, C. G.
Conger,	Ketcham,	Reed,	Willis, Benj. A.
Cox, Jacob D.	Lapham,	Rice, William W.	Willits,
Crapo,	Lathrop,	Robinson, G. D.	Wood.

NAYS—94.

Atkins,	Crittenden,	Hartzell,	Ross,
Banning,	Cummings,	Hatcher,	Sampson,
Blackburn,	Davidson,	Herbert,	Saylor,
Blount,	Davis, Joseph J.	Hewitt, Abram S.	Seales,
Boone,	Dean,	Hewitt, G. W.	Singleton,
Boyd,	Dibrell,	House,	Smith, William E.
Bragg,	Dickey,	Hunton,	Southard,
Cabell,	Douglas,	Jones, James T.	Sparks,
Caldwell, John W.	Dunnell,	Kenna,	Springer,
Caldwell, W. P.	Durham,	Kimbel,	Steele,
Candler,	Eden,	Landers,	Stenger,
Carlisle,	Elam,	Ligon,	Throckmorton,
Claffin,	Evins, John H.	Lockwood,	Townsend, R. W.
Clark, Alvah A.	Felton,	Mackey,	Turner,
Clark of Missouri,	Finley,	Maish,	Turney,
Clark, Rush	Forney,	McKenzie,	Vance,
Clarke of Kentucky,	Franklin,	Muldrow,	Whitthorne,
Clymer,	Garth,	Oliver,	Wiginton,
Cobb,	Giddings,	Rca,	Williams, James
Collins,	Goode,	Reagan,	Williams, Richard
Cook,	Hardenbergh,	Reilly,	Willis, Albert S.
Covert,	Harris, Henry R.	Rice, Americus V.	Wilson.
Cox, Samuel S.	Harris, John T.	Riddle,	
Cravens,	Harrison,	Roberts,	

NOT VOTING—81.

Aiken,	Foster,	Kelley,	Robinson, M. S.
Bacon,	Freeman,	Killinger,	Schleicher,
Baflou,	Fuller,	Knapp,	Sexton,
Banka,	Garfield,	Knott,	Shelley,
Bell,	Ganse,	Luttrell,	Slemmons,
Benedict,	Gibson,	Lynde,	Swann,
Bland,	Glover,	Manning,	Thornburgh,
Brentano,	Gunter,	Martin,	Tipton,
Bridges,	Hamilton,	McMahon,	Van Vorhes,
Buckner,	Hart,	Money,	Waddell,
Bundy,	Hart-ridge,	Morrison,	Walsh,
Calkins,	Hazelton,	Morse,	Watson,
Camp,	Hendee,	Muller,	Welch,
Campbell,	Henderson,	Patterson, T. M.	Williams, Jere N.
Davis, Horace	Henkle,	Poddie,	Wren,
Dwight,	Hiseock,	Potter,	Wright,
Eickhoff,	Hooker,	Pound,	Yeates,
Ellis,	Humphrey,	Powers,	Young.
Ellsworth,	James,	Quinn,	
Ewing,	Jones, Frank	Robbins,	
Fort,	Jorgensen,	Robertson,	

So the resolution was adopted. During the call of the roll the following announcements were made: Mr. PUGH. I am paired with Mr. MARTIN, of West Virginia. I

am informed by Mr. MARTIN's friends that I am at liberty to vote on this question. I therefore vote "ay."

Mr. MCGOWAN. I am paired with Mr. GUNTER, of Arkansas, but not regarding this as a political question I vote "ay."

The result of the vote was then announced as above stated.

Mr. BEEBE 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.

Mr. ATKINS. I now move that the House further insist on its disagreement to the amendments of the Senate on the legislative appropriation bill, and agree to the further conference asked for by the Senate thereon.

The motion was agreed to.

Mr. ATKINS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The Chair appoints as conferees on the legislative appropriation bill Mr. ATKINS of Tennessee, Mr. DURHAM of Kentucky, and Mr. FOSTER of Ohio.

#### INTERNAL REVENUE.

Mr. TUCKER. I demand the regular order.

The SPEAKER. The regular order is the further consideration of the bill to amend the laws relating to internal revenue. The gentleman from Kentucky [Mr. CARLISLE] will resume the chair.

The SPEAKER *pro tempore*, (Mr. CARLISLE.) The House, as in Committee of the Whole, resumes the consideration of the bill (H. R. No. 4414) to amend the laws relating to internal revenue. The gentleman from Virginia [Mr. TUCKER] has offered an amendment, which the Clerk will read, and demands the previous question on the amendment and the paragraph.

The Clerk read as follows:

In section 14, after line 22, add as follows:  
That subdivision 6 of said section 3244 of the Revised Statutes be, and hereby is, amended by adding to said subdivision as follows:

*Provided*, It shall be lawful for any licensed manufacturer of cigars to purchase leaf-tobacco of any licensed dealer or other licensed manufacturer, in quantities less than the original package for use in his own manufactory exclusively.

The previous question was seconded and the main question ordered.

The question being put on the amendment, there were—ayes 73, noes 65.

So (further count not being called for) the amendment was adopted.

The Clerk resumed the reading of the bill, and read the following paragraph of section 16:

Upon the presentation to the collector of internal revenue of a detailed report from the inspector of customs and a certificate from the collector of customs at the port from which the goods are to be exported that the goods removed from the manufactory under bond, and described in the permit of the collector of internal revenue have been received by said collector of customs, and that said goods were duly laden on board of a foreign-bound vessel, naming the vessel, and that said merchandise was entered on the outward manifest of said vessel, and that said vessel and cargo were duly cleared from said port, and upon the payment of tax on deficiency, if any, the bonds required to be given under the provisions of this section shall be canceled.

Mr. BURCHARD. I offer the following amendment:

In line 21, strike out the words "required to" and insert "which have been or shall hereafter."

The amendment was adopted.

The Clerk resumed the reading of the bill, and read the following paragraph of section 16:

Every person who, with intent to defraud the revenue laws of the United States, relands, or causes to be relanded, within the jurisdiction of the United States, any manufactured tobacco, snuff, or cigars which have been shipped for exportation under the provisions of this act, without properly entering such tobacco, snuff, or cigars at a custom-house and paying the proper customs and internal-revenue taxes thereon, or who receives such relanded tobacco, snuff, or cigars, and every person who aids or abets in such relanding or receiving of such tobacco, snuff, or cigars, shall be fined not exceeding \$5,000, and imprisoned not more than three years, and all tobacco, snuff, and cigars so relanded shall be forfeited to the United States.

Mr. LAPHAM. I offer the following amendment:

In line 32, after the word "shall," insert the words "on condition;" and in line 33 strike out the word "and" and insert the word "or;" so that it will read:

Shall, on conviction, be fined not exceeding \$5,000, or imprisoned not more than three years, &c.

As it is now the penalty is both fine and imprisonment. The word should be "or."

The amendment was adopted.

Mr. KELLEY. I offer the amendment which I send to the desk, to come in as a new section after the paragraph last read. I may say that I believe it has the approval of the committee, certainly of the subcommittee of Ways and Means that prepared this bill. I should say more but for the rule which has restricted debate.

The Clerk read as follows:

After line 35, insert the following:  
That for the purpose of preventing frauds upon the revenue, the Secretary of the Treasury is hereby authorized and directed to provide, by appropriate regulations, a system by which each and every cigar manufactured in or imported into the United States shall have affixed to it a stamp before being sold or offered for sale, which said cigar-stamps shall so correspond with the stamp now required by law to be affixed to each box of cigars that the same can readily be identified as appertaining to said box-stamp and be readily distinguishable from those appertaining to any other box-stamp. And, as part of said regulations, the Secretary of the Treasury is further authorized to remit and discontinue such of the provisions, requirements, and penalties now provided by existing laws in relation to the branding of boxes to cautionary notices, and as to the prohibition of second or repeated use of cigar boxes, and also as to the giving of bonds by cigar manu-

facturers, and the keeping and rendition of accounts, as in his judgment shall become inexpedient and unnecessary.

And from and after the date at which said regulations shall go into effect, all penalties now provided by law in relation to the counterfeiting or second use of box-stamps shall apply and be in force as to the counterfeiting or second use of said cigar-stamps for individual cigars; and the sale or offering for sale of cigars not bearing such stamps shall be unlawful, under the same penalties now prescribed by law for the sale, offering for sale, or use of cigars in boxes not properly stamped with box-stamps.

The same system under the said regulations shall also be extended to cigarettes, which shall be required to be made up in packages of such number and weight as may be prescribed, which packages shall be treated, as hereinbefore required, as cigars, to be stamped in the like manner and under the like penalties. And for the purposes of this act, the word cigar shall be deemed and taken to include cheroots.

And to defray the cost and expense of carrying said system into effect, there shall be paid by each importer and manufacturer of cigars, in addition to the tax provided by law, the sum of one cent for each box-stamp and corresponding cigar-stamps for each box of twenty-five cigars; the sum of two cents for each box-stamp and corresponding cigar-stamps for each box of fifty cigars; the sum of three cents for each box-stamp and corresponding cigar-stamps for each box of one hundred cigars; the sum of four cents for each box-stamp and corresponding cigar-stamps for each box of two hundred and fifty cigars; the sum of five cents for each box-stamp and corresponding cigar-stamps for each box of five hundred cigars; and in the same proportion for packages of cigarettes made up as hereinbefore prescribed.

And the said Secretary of the Treasury is further authorized and directed to prescribe such reasonable regulations as may be requisite and necessary to enforce the collection of the revenue under and by such system, and the payment by manufacturers and importers of cigars of the sums herein declared as the cost of said stamps, and to use and disburse the amount so collected in payment of the cost and expense of enforcing and continuing said system.

And the said Secretary of the Treasury is further authorized to provide in said regulations for the issue to any manufacturer, upon proper bond and security, of the cigar stamps he may need in his business, the box-stamps for which shall be held by the collector until required by such manufacturer for the packing and offering for sale of his said cigars.

Mr. SAYLER. I hope the House will not adopt that amendment. I state here from information that the adoption of an amendment requiring a stamp to be put upon each cigar will impose a burden upon the manufacturers of the ordinary or common cigars that will utterly destroy the business. I hope it will not be entertained by the House.

Mr. WILSON. I wish to state that there are thirty millions of cigars annually made in the city of Wheeling alone.

Mr. KELLEY. In the present temper of the House I withdraw the amendment.

Mr. TUCKER. I offer an amendment which is recommended by the Commissioner of Internal Revenue, and which I think is right.

The Clerk read as follows:

Add at the end of line 61, page 38, the following:  
And further, by striking out, in line 8, the word "manufactories" and insert in lieu thereof the word "manufacturers."

The amendment was adopted.

The Clerk resumed the reading of the bill, and read as follows:

That section 3397 be, and the same is hereby, amended by striking out the words "without burning into each box with a branding-iron," and inserting in lieu thereof the words "without stamping, indenting, burning, or impressing into each box in a legible and durable manner;" and that said section be further amended by adding thereto the following words: "*Provided*, That cigars packed expressly for export, and which shall be exported to a foreign country under the restrictions and regulations prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury, shall be exempt from the provisions of this section, and also from the provisions of section 3393 of the Revised Statutes, requiring a label to be affixed to each box."

Mr. TUCKER. I offer an amendment to that paragraph, which is recommended by the Commissioner of Internal Revenue, so as to make this clause correspond with one previously acted upon, by adding to the section the words, "and further, by striking out the name of the manufacturer, in the fifth line," and inserting in lieu thereof "the number of the manufactory."

The amendment was agreed to.

Mr. BURCHARD. I offer the following amendment to the section, which is recommended by the Commissioner of Internal Revenue:

Insert at the close of section 4, page 11, line 27, after the foregoing amendment to the seventh paragraph of section 2344, as follows:

That section 18 of an act to amend existing customs and internal-revenue laws, and for other purposes, approved February 8, 1875, be amended by inserting in the definition of a wholesale dealer in malt liquors, after the words "who does not deal in spirituous liquors," the words, "at wholesale," and by striking out the word "wholesale" in the twenty-second line thereof and inserting "and it is hereby provided that no further collection or special tax as retail dealers in malt liquors shall be made from brewers for selling malt liquors of their own manufacture in the original stamp eight-barrel package."

That section 18 be further amended by adding after the word "him," in the twenty-fourth line thereof, the words "or purchased and procured by him in his own casks or vessels under the provisions of section 3349 of the Revised Statutes, but the quantity of liquors so purchased shall be included in calculating the liability to brewers' special tax of both the brewer who manufactures and sells the same and the brewer who purchases the same."

Mr. SAYLER. That is all right. There can be no objection to that.

The amendment was agreed to.

Mr. BURCHARD. I also move to insert in line 123, page 16, the following:

If it shall appear at any time that there has been a loss of distilled spirits from any cask or other package hereafter deposited in the distillery warehouse, other than the loss provided for in section 3221 of the Revised Statutes of the United States which, in the opinion of the Commissioner of Internal Revenue, is excessive, he may instruct the collector of the district in which the loss has occurred to require the withdrawal from the warehouse of any such spirits and to collect the tax accrued upon the original quantity of distilled spirits entered into the warehouse in such cask or package, together with the interest accrued thereon, if any, notwithstanding that the time specified in any bond given for the withdrawal of the spirits entered into warehouses in such cask or package has not expired; if the said tax

and interest are not paid on demand, the collector shall report the amount due upon his next monthly list, and it shall be assessed and collected as other taxes are assessed and collected.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read as follows:

SEC. 17. That the Commissioner of Internal Revenue may establish factories at any port of entry in the United States, and at any other place not a port of entry which the Secretary of the Treasury may designate as proper for the purposes of this section, to be known and designated as export tobacco-factories, intended for the manufacture of cigars and tobacco exclusively for export, upon the application of any person or firm intending to engage in the manufacture of cigars and tobacco exclusively for export; and upon the applicant's furnishing a statement under oath setting forth the place, and particularly describing the building, giving the city, the street, and the number of the street where the manufacture is to be carried on, and upon the execution of such bonds as said commissioner may prescribe, conditioned for a faithful compliance with the laws of the United States in the conduct of his business.

Mr. TUCKER. I move to strike out the word "may" in line 2 and to insert in lieu thereof the word "shall;" so that it will read:

That the Commissioner of Internal Revenue shall establish factories, &c.

The amendment was agreed to.

Mr. BURCHARD. I move to strike out in the second line the word "establish" and to insert in lieu thereof "authorize the establishment of." This amendment is suggested by the Commissioner of Internal Revenue, who does not want to establish them himself, but wants authority only to let them be established.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read as follows:

Every such manufacturer shall keep the books and make the inventories and monthly reports required by law of other manufacturers of cigars and chewing-tobacco. But such manufacturers shall be relieved of the requirements of the law relative to the mode of packing, stamping, branding, affixing labels or caution-notice on cigars and tobacco put up and removed for consumption or sale in the United States.

Mr. TUCKER. I move, in line 49, to strike out the word "chewing;" so that it will apply to all tobacco.

The amendment was agreed to.

The Clerk resumed the reading of the bill, and read as follows:

The Secretary of the Treasury is authorized and hereby directed, under such rules and regulations as he may prescribe, and after the filing of such bonds as he may require, and under the supervision of such officer as he may designate, to issue permits for the removal in original packages of any leaf-tobacco or other materials imported into the United States, without payment of duties thereon, from on shipboard or from the bonded warehouse in which the same may be stored, into any factory established as aforesaid for the manufacture of cigars and tobacco exclusively for export, for the purpose of being used in such manufacture. The bonds given for such removals shall be canceled upon satisfactory evidence furnished to the collector of customs receiving the same that the leaf-tobacco or other materials withdrawn as aforesaid without the payment of the duties thereon have been used as hereinbefore provided, and that the cigars and other products thereof have been actually exported. And under such rules and regulations as the Secretary of the Treasury may prescribe, tobacco grown in the United States and used in export factories under this section exclusively for export of the cigars or tobacco manufactured therefrom, or in which such tobacco shall be a constituent, all internal-revenue taxes shall be remitted or a drawback allowed therefrom.

Mr. RANDOLPH. I wish to inquire of the committee if that clause allows persons foreign to our Government to introduce leaf-tobacco without any tax upon it at all for manufacturing purposes? If it does, it is a discrimination against our citizens and in favor of foreigners that we ought not to make.

Mr. SAYLER. This relates to leaf-tobacco exported and not to leaf-tobacco imported. There is no objection of the kind to which the gentleman refers to this paragraph.

Mr. RANDOLPH. I would ask to have the paragraph read again, so that we may understand it.

Mr. BANNING. I object.

Mr. RANDOLPH. I understand that it is the right of a member to have a proposition pending before the House read.

The SPEAKER *pro tempore*. Every member is entitled to have a proposition read once, but this paragraph has been read once.

Mr. RANDOLPH. I have known it done three or four times.

The SPEAKER *pro tempore*. That must have been by unanimous consent.

Mr. RANDOLPH. It is sharp practice, but I suppose it will work out all right.

Mr. BURCHARD. I desire to say to the gentleman that this allows tobacco that is imported in bond to be exported again without the payment of duty. The tobacco does not come into the United States for consumption.

Mr. BANNING. I call for the regular order.

The Clerk resumed the reading of the bill, and read the following:

The Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, is hereby authorized to make all needful rules and regulations to carry into operation and effect the provisions of this section.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed, without amendment, a bill of the House of the following title:

A bill (H. R. No. 762) granting a pension to John S. Hall, of West Virginia.

The message also announced that the Senate had passed and requested the concurrence of the House in a bill of the following title:

A bill (S. No. 1404) to provide for the holding of a term of the district and circuit courts of the United States at Lincoln, Nebraska.

#### INTERNAL REVENUE.

The House resumed the consideration of the bill (H. R. No. 4414) to amend the laws relating to internal revenue.

Mr. HARRISON. I desire to offer an amendment, to come in after the paragraph last read, providing for a progressive income tax, which was directed by this House last winter by a two-third vote.

Mr. HEWITT, of New York. I have an amendment relating to the subject to which this section refers.

The SPEAKER *pro tempore*. That amendment will be first in order. The amendment of Mr. HEWITT, of New York, was read, as follows:

The Commissioner of Internal Revenue, upon the execution of such bonds and compliance with such regulations as he, with the approval of the Secretary of the Treasury, shall prescribe, shall designate and establish at any port of entry in the United States bonded warehouses for the storage of manufactured tobacco, snuff, and cigars intended for exportation, selecting suitable buildings or parts of buildings for such purpose, to be recommended by the collector of internal revenue in charge of exports at such ports, to be known as export bonded tobacco warehouses, and to be used solely and exclusively for the storage of manufactured tobacco, snuff, and cigars in bond for exportation. Such warehouse shall occupy one entire building, no part of which shall be used or occupied for any business or purpose whatever except for storage as aforesaid. No manufacturer or dealer or broker in tobacco, snuff, or cigars shall be interested, directly or indirectly, in such warehouse, nor act as an officer or agent of the Government for any purpose connected therewith. Any person who shall use or occupy such warehouse or any part thereof, except as herein provided, or who shall remove or aid or abet in removing any tobacco, snuff, or cigars, or any package purporting to contain tobacco, snuff, or cigars, from any such warehouse, except as herein provided, shall on conviction be fined for each such offense not less than \$100 nor more than \$1,000, and be imprisoned not less than six months nor more than two years. The warehouses hereby authorized shall be under the control of the collector of internal revenue in charge of exports at the port, and shall be in the joint custody of the proprietor and the internal-revenue storekeeper assigned thereto, and shall be secured by locks prescribed by the Commissioner of Internal Revenue, and shall be under such further regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe. The United States shall not issue nor be responsible for the safety of the goods deposited in any warehouse hereby authorized to be established.

All handling of the goods deposited in such warehouses shall be performed in the presence and under the supervision of the storekeeper. No expense incident to the removal, transportation, storage, withdrawal, or exportation of goods under the provisions of this act shall be a charge upon the United States. The charges for labor and for storage on the goods deposited shall be fixed by agreement between the depositor or owner of the goods and the proprietor of the warehouse, subject to appeal to the Commissioner of Internal Revenue, who is hereby empowered to adjust any differences which may thus be brought before him.

The proprietors of the export bonded tobacco warehouses hereby authorized to be established shall reimburse to the United States the compensation paid to the storekeepers in charge of such warehouses; and the Commissioner of Internal Revenue is hereby authorized to prescribe, with the approval of the Secretary of the Treasury, the time and mode of such reimbursement, and to enforce the same by assessment and collection wherever necessary, in the same manner in which taxes may be assessed and collected. Manufactured tobacco, snuff, or cigars intended for exportation, after being properly exhibited, marked, and handled, and on the execution of such bond and under such regulations as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may be removed from the manufactory without payment of tax, to be transferred directly to an export bonded tobacco warehouse established at any port of entry as hereinbefore provided for export, and shall not be withdrawn therefrom except for export or for return to the manufactory; and the deposit in and withdrawal from any such export bonded warehouse of manufactured tobacco, snuff, or cigars for exportation, or for return to the manufactory shall be made under such rules and regulations, and after making such entries and executing such bonds, and giving, if required by the Commissioner, such other additional security as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury; and such withdrawal for exportation or return to the manufactory shall be made within one year from the entry of the goods into the said warehouse. There shall be affixed to each package of tobacco, snuff, or cigars intended for removal or transportation to an export bonded warehouse for export, before it is removed from the manufactory, an engraved stamp indicative of such intention, to be provided and furnished as in other cases of exportation of tobacco, snuff, or cigars under existing provisions of law. Any bond given under the provisions of this act shall be renewed, strengthened, or increased, from time to time, as the Commissioner of Internal Revenue may require.

Mr. HEWITT, of New York. The object of this amendment is to secure the establishment of bonded tobacco warehouses for export. Strange as it may seem, there are in all ports of the United States where steamships come and go no bonded warehouses for the export of tobacco. This amendment is prepared by the Commissioner of Internal Revenue, is approved by him, and it is petitioned for by the Chamber of Commerce of New York and by other chambers of commerce. I suppose there is no large commercial port in the world in which bonded warehouses for tobacco as well as other commodities do not exist. Yet to-day if an order arrives from Europe to ship tobacco from New York, for instance, the order must actually go to Richmond and the goods be brought over to be put upon the steamship; and in the mean time the steamship upon which the tobacco was to be shipped may have left the port. This difficulty, which the amendment is designed to remedy, is an interference with trade; and it affects injuriously the value of tobacco. This amendment is in the interest, not only of commerce but of the producers of tobacco, as it tends to widen the market.

Mr. TUCKER. I will say that the Committee of Ways and Means do not report this amendment.

Mr. BURCHARD. The committee, however, are not opposed to it.

Mr. HEWITT, of New York. I understand that the committee do not oppose it.

The amendment was adopted.

The SPEAKER *pro tempore*. The amendment offered by the gentleman from Illinois [Mr. HARRISON] will now be read.

The Clerk read as follows:

Insert the following as section 18:

SEC. 18. There shall be levied and collected, as hereinafter provided, for the year

1878, and annually thereafter, upon the gains, profits, and income of every person residing in the United States, and of every citizen of the United States temporarily residing abroad, derived from any source whatever, whether within or without the United States, except as hereafter provided, and the gains, profits, and income derived from any business, trade, or profession carried on in the United States by any person residing without the United States, and not a citizen thereof, or from rents of real estate within the United States owned by any person residing without the United States, and not a citizen thereof, the following tax, to wit:

One per cent. on the amount of such annual gains, profits, or income, over and above the sum of \$2,000 and under the sum of \$3,000: *Provided, however*, That no duty shall be levied or collected unless such gains, profits, or income shall reach the sum of \$2,500.

And a duty of 1½ per cent. on the amount of such annual gains, profits, or income, over and above the sum of \$3,000 and under the sum of \$4,000.

And a duty of 2 per cent. on the amount of such gains, profits, or income, over and above the sum of \$4,000 and under the sum of \$5,000.

And a duty of 2½ per cent. on the amount of such gains, profits, or income, over and above the sum of \$5,000 and under \$7,000.

And a duty of 3 per cent. on the amount of such gains, profits, or income over and above the sum of \$7,000 and under \$10,000.

And a duty of 3½ per cent. on the amount of such gains, profits, or income over and above the sum of \$10,000 and under \$15,000.

And a duty of 4 per cent. on the amount of such gains, profits, or income over and above the sum of \$15,000 and under \$23,000.

And a duty of 5 per cent. upon the amount of such gains, profits, or income over and above the sum of \$23,000 and under \$35,000.

And a duty of 6 per cent. upon the amount of such gains, profits, or income over and above the sum of \$35,000 and under \$50,000.

And a duty of 8 per cent. on the amount of such gains, profits, or income over and above the amount of \$50,000 and under \$100,000.

And a duty of 10 per cent. on the amount of such gains, profits, or income over and above the sum of \$100,000.

In estimating the gains, profits, and income of any person, there shall be included all income derived from any kind of property, rents, interest received or accrued upon all notes, bonds, and mortgages, or other forms of indebtedness bearing interest, whether paid or not, if good and collectible, interest upon notes, bonds, or other securities of the United States; and the amount of all premium on gold and coupons; the gains, profits, and income of any business, profession, trade, employment, office, or vocation, including any amount received as salary or pay for services in the civil, military, naval or other service of the United States, or as Senator, Representative, or Delegate in Congress; the share of any person of the gains and profits, whether divided or not, of all companies or partnerships, but not including the amount received from any corporations whose officers, as authorized by law, withhold and pay as taxes a percentage of the dividends made, and of interest or coupons paid by such corporations; profits above costs and expenses actually received or realized in cash or cash value within the year from sales of real estate purchased within two years previous to the year for which income is estimated; the amount of sales of live stock, sugar, wool, butter, cheese, pork, beef, mutton, or other meats, hay and grain, fruits, vegetables, or other productions, being the growth or produce of the estate of such person, but not including any part thereof consumed directly by the family; and all other gains, profits, and income drawn from any source whatever, but not including the rental value of the homestead owned and used or occupied by any person or by his family: *Provided*, That no gift, devise, or property acquired by inheritance, distribution, or succession shall be accounted as gains, profits, or income under this section.

Military or naval pensions allowed to any person under the laws of the United States and the sum of \$2,000 of the gains, profits and income of any person shall be exempt from said income tax in the manner hereinafter provided. Only one deduction of \$2,000 shall be made from the aggregate income of all the members of any family composed of one or both parents and one or more minor children, or of husband and wife; but when a wife has by law a separate income, beyond the control of her husband, and is living separate and apart from him, such deduction shall then be made from her income, gains, and profits; and guardians and trustees shall be allowed to make the reduction in favor of each ward or beneficiary, except that in case of two or more wards or beneficiaries comprised in one family, having joint property interest, only one deduction shall be made in their favor. For the purpose of allowing said deduction from the income of any religious or social community holding all their property and the income therefrom jointly and in common, each five of the persons composing such society, and any remaining fractional number of such persons less than five over such groups of five, shall be held to constitute a family, and a deduction of \$2,000 shall be allowed for each of said families.

In addition to the exemptions provided in the preceding section, there shall be deducted from the gains, profits, and income of any person all premiums on insurance of life or property, and all national, State, county, and municipal taxes paid by him within the year, whether such person be owner, tenant, or mortgagee; all his losses actually sustained during the year, arising from fires, floods, shipwrecks, or incurred in trade, and debts ascertained to be worthless, but excluding all estimated depreciation of values; the amount of interest paid during the year, and the amount paid for rent or labor to cultivate land or to conduct any other business from which income is derived; the amount paid for the rent of the house or premises occupied as a residence for himself or his family, and the amount paid out for usual and ordinary repairs. No deduction shall be made for any amount paid out for new buildings, permanent improvements, or betterments made to increase the value of any property or estate.

The salaries of the President of the United States, and of all judges of the United States, and of all officers, executive, judicial, and legislative, of any State of the Union, shall also be deducted from the gains, profits, and income of any person, and be exempt from the said tax; and consuls of foreign governments who are not citizens of the United States shall be exempt from any income tax imposed by this act which may be derived from their official emoluments or from property in foreign countries: *Provided*, That the governments which such consuls may represent shall extend similar exemption to consuls of the United States.

That the tax hereinbefore provided shall be assessed upon the gains, profits, and income for the half year ending the 31st day of December, 1878, and of each succeeding year, and shall be assessed and levied in the year 1879, and each succeeding year, as herein provided, and shall, after assessment, be due and payable upon notice and demand made as provided by section 3284 Revised Statutes. When said tax shall have been assessed by the Commissioner of Internal Revenue and said lists shall have been returned to the collector, he shall at once proceed to collect the tax assessed in the same manner as all other assessed taxes are required by law to be collected; and in case of default in the payment of the tax as required or any part thereof, the penalty of 5 per cent. and interest at the rate of 1 per cent. per month shall also be collected in the manner prescribed by law in the case of other assessed taxes. If any person liable to pay the said tax neglects or refuses to pay the same for ten days after demand, the amount shall be a lien in favor of the United States from the time it was due until paid, with, except in case of deceased, insane, or insolvent persons, the interest, penalties, and costs that may accrue in addition thereto, upon all the real and personal property of the person assessed within the collection district.

That it shall be the duty of every person of lawful age having a taxable income, during the preceding year to make and render a return on or before the 10th day of January, or within twenty days thereafter, to the collector of internal revenue of

the district in which he resides, of the gross amount of his income, gains, and profits as aforesaid; but not including the amount received from any corporation whose officers, as authorized by law, withhold and pay as taxes a per centum of the dividends made and of the interest or coupons paid by such corporation, nor the wages of minor children not received; and every guardian and trustee, executor or administrator, and any person acting in any other fiduciary capacity, or as a resident agent for, or copartner of, any citizen or non-resident alien, deriving incomes, gains, and profits from any business, trade, or profession carried on in the United States, or from rents of real estate situated therein, shall make and render a return, as aforesaid, to the collector of the district in which he resides, of the amount of income, gains, and profits of any minor or person for whom he acts.

And it shall be the duty of every collector to notify, in writing, by mail or otherwise, all such persons in his district as he shall have reason to believe had a taxable income for the preceding year to make and render a like return thereof. And such notice may be delivered to the person or left at his dwelling or usual place of business, or may be sent by mail.

Every such return shall be signed by the party rendering it, and shall be made in duplicate to the collector, who will immediately transmit one copy to the Commissioner of Internal Revenue, and the returns shall be made in such forms and manner as may be prescribed by general rules and regulations of the Commissioner of Internal Revenue, in order to ascertain the amount of his income, gains, and profits legally liable to said tax; and where the party liable to the tax shall not be a resident of the United States the collector may in like manner require a like return of any agent of such non-resident in order to ascertain his taxable income.

And it shall be the duty of the Commissioner of Internal Revenue to prepare and forward to the collectors of internal revenue the needful schedules, blanks, and instructions, with such questions as he may deem necessary in order to elicit from each person a full, fair, and unequivocal account of his income, gains, and profits liable to said tax.

If any person having a taxable income shall fail or refuse, after being notified as aforesaid to make such return, or shall make a false return, it shall be the duty of the collector, after reasonable notice to such person of the time and place of doing so, to proceed to make such return upon such evidence as he shall be able to obtain from any other source, or may be offered by the person himself, and shall add, as a penalty, to the amount of the tax due thereon, 50 per cent. in all cases of willful neglect or refusal to make and render a return, and 100 per cent. in all cases of a false or fraudulent return having been rendered. The tax and the addition thereto as penalty shall be assessed and collected in the manner provided for in other cases of willful neglect or refusal to render a return, or of rendering a false or fraudulent return.

Any person may appeal from the decision of the collector in such cases to the Commissioner of Internal Revenue. The form, time, and manner of proceedings shall be subject to regulations to be prescribed by the Commissioner of Internal Revenue.

And in all such proceedings any person, in his own behalf or as such fiduciary agent, shall be permitted to declare under oath, or otherwise show, that he or his ward, beneficiary, or principal was not possessed of an income liable to be assessed according to the provisions of this act, or may declare that an income tax has been assessed and paid elsewhere in the same year, under authority of the United States, upon his income, gains, and profits, or those of his ward, beneficiary, or principal, as required by law; and if the collector shall be satisfied of the truth of the declaration, such person shall thereupon be exempt from income tax in the said district.

It shall be the duty of each collector, on or before the 15th day of February, in the year 1879, and of every succeeding year, to make triplicate lists of all the returns within his district, giving the name, residence, gross income, exemptions, deductions, and any other facts which, under the regulations to be made by the Commissioner of Internal Revenue, may be required. The collector shall immediately thereafter transmit to the Commissioner of Internal Revenue one of each of the returns made to the collector, with the original and duplicate lists aforesaid, retaining one set of returns and the triplicate list in his office. Upon the receipt of said lists and returns the Commissioner of Internal Revenue shall, as soon as practicable, assess the tax due by each person, and shall thereupon transmit the original list, with said assessments, to the collector, who shall give receipts therefor as in other cases: *Provided, however*, That no collector shall permit to be published in any manner such income returns, or any part thereof, except such general statistics not specifying the names of individuals or firms as he may make public under such rules and regulations as the Commissioner of Internal Revenue shall prescribe.

In case the Commissioner shall not, within the fifteen months allowed by law, assess all the amounts omitted from any original list as aforesaid, and the persons liable to such amounts shall make return thereof, as in other cases provided, with waiver of the fifteen months' limitation as to assessment imposed by law, the Commissioner may make and certify assessments of such amounts to the collector; or, in case the person liable neglects or refuses to make the return, with waiver of the amount of his liability, or of any portion thereof, then the tax, with an amount added thereto, in the case of neglect or refusal to make return, equal to 50 per cent. thereof, and, in case of a false or fraudulent return, equal to 100 per cent. thereof, shall be due and payable on the 30th day of April in the year next succeeding that in which the income, gains, and profits were received. And the Commissioner of Internal Revenue shall cause suit to be instituted in the proper court of the United States for the recovery of the amount so found due and payable, together with a penalty of 5 per cent. and interest, at the rate of 1 per cent. per month for each full calendar month, reckoning from the 30th day of April in the year next succeeding that in which the income, gains, and profits were received.

That if any person signing and making the return above prescribed in regard to said tax shall intentionally and fraudulently sign and make a false return, he may be indicted and convicted in any court of the United States having local jurisdiction, and shall upon conviction be subject to a fine of not less than \$1,000 nor more than \$10,000, and be imprisoned not less than one nor more than ten years, or both, at the discretion of the court.

The taxes collected under this act shall be paid over and accounted for in the same manner that other internal-revenue taxes are required to be paid by law, and the collectors of internal revenue, before proceeding to execute this act, shall renew their bonds as such, or give a separate bond, with sufficient sureties as now provided in like cases, conditioned to discharge their duties under it, and to account for all moneys received under its provisions.

There shall be levied and collected for and during the year 1878, and annually thereafter, a tax of 2 per cent. on the amount of all interest or coupons paid on bonds or other evidences of debt issued and payable in one or more years after date, by any of the corporations in this section hereinafter enumerated, and on the amount of all dividends of earnings, income, or gains hereafter declared by any bank, trust company, savings institution, insurance company, railroad company, canal company, turnpike company, canal navigation company, and slack-water company, whenever and wherever the same shall be payable, and to whatsoever person the same may be due, including non-residents, whether citizens or aliens, and on all undivided profits of any such corporation which have accrued and been earned and added to any surplus, contingent, or other fund, and every such corporation having paid the tax as aforesaid is hereby authorized to deduct and withhold from any payment on account of interest, coupons, and dividends an amount equal to the tax of 2 per cent. on the same; and the payment to the United States, as provided by law, of the amount of tax so deducted from the interest, coupons, and dividends aforesaid, shall discharge the corporation from any liability for that

amount of said interest, coupons, or dividends, claimed as due to any person, except in cases where said corporations have provided otherwise by an express contract: *Provided*, That the tax upon the dividends of insurance companies shall not be deemed due until such dividends are payable, either in money or otherwise; and that the money returned by mutual insurance companies to their policy-holders and the annual or semi-annual interest allowed or paid to the depositors in savings banks or savings institutions shall not be considered as dividends; and that when any dividend is made, or interest as aforesaid is paid, which includes any part of the surplus or contingent fund of any corporation which has been assessed and the tax paid thereon, or which includes any part of the dividends, interest, or coupons received from other corporations whose officers are authorized by law to withhold a per centum on the same, the amount of tax so paid on that portion of the surplus or contingent fund, and the amount of tax which has been withheld and paid on dividends, interest, or coupons so received, may be deducted from the tax on such dividend or interest.

That every person having the care or management of any corporation liable to be taxed under the last preceding section shall make and render to the collector of the district in which such person has his office for conducting the business of such corporation, on or before the 10th day of the month following that in which any dividends or sums of money become due or payable as aforesaid, a true and complete return in duplicate, in such form as the Commissioner of Internal Revenue may prescribe, of the amount of income and profits and of taxes as aforesaid; and there shall be annexed thereto a declaration of the president, cashier, or treasurer of the corporation, under oath, that the same contains a true and complete account of the income and profits and of taxes as aforesaid. And for each and every default in the making or rendering of such return, with such declaration annexed, the corporation so in default shall forfeit, as a penalty, the sum of \$1,000; and in case of any default in making or rendering said return, or of any default in the payment of the tax as required, or of any part thereof, the assessment and collection of the tax and penalty shall be in accordance with the provisions of law in other cases of neglect and refusal.

The collector, upon receiving such returns, shall immediately transmit one copy to the Commissioner of Internal Revenue.

The provisions of chapter 2, title 35, of the Revised Statutes of the United States, relative to assessments and collections of internal-revenue taxes, are, when not inconsistent with any of the provisions of this act, hereby made applicable to the assessment and collection of the taxes imposed by this act.

Sec. 3. Amend section 3405 of the Revised Statutes by adding at the end of the first clause, in the eighth line, the words following:

*Provided, however*, That no bank or banker shall be liable to said tax upon any sum under the name of deposits which shall appear to be deposited with any other bank or banker, and which is subject to tax as deposits with such last-named bank or banker: *And provided further*, That no funds belonging to any State which shall be on deposit in any bank or banking institution shall be liable to taxation by the Government of the United States; nor shall any such bank or banking institution holding such funds on deposit to the credit of any State be required to pay tax on the same as deposits, or in any other manner whatever.

And strike out all in said section after the thirtieth line, and insert the following:

The deposits in associations or companies known as provident institutions, savings-banks, savings funds, or savings institutions, recognized as such by the laws of their respective States, shall be exempt from tax on all deposits, and on so much of their deposits as they have invested in securities of the United States, except that where any deposits to the credit or in the name of any one person, firm, or corporation shall exceed \$2,000, the excess above that amount shall be liable to tax.

That all laws or parts of laws inconsistent with the provisions of this section be, and the same are hereby, repealed.

When the foregoing amendment had been partly read,

Mr. McCOOK said: Mr. Speaker, I wish to ask whether it will be necessary to have this very long proposition read. I suppose every member of the House has seen it; perhaps it is on the desk of almost every one.

The SPEAKER *pro tempore*. It must be read unless a point of order be made on it; and even then the Chair might not be able to rule—

Mr. HARRISON. Allow me to say a word. With the exception of the percentage of tax proposed to be imposed on incomes, this is the bill reported from the Committee of Ways and Means in connection with the tobacco tax. This amendment directs a tax of 1 per cent. on an income between \$2,000 and \$3,000, provided such income reaches the sum of \$2,500. The reason of this proviso is that a tax on less than \$500 would not well pay for the collection. On an income from \$3,000 to \$4,000, a tax of 1½ per cent.; on incomes from \$4,000 to \$5,000, a tax of 2 per cent.; on incomes from \$5,000 to \$7,000, a tax of 2½ per cent.; on incomes from \$7,000 to \$10,000, a tax of 3 per cent.; on incomes from \$10,000 to \$15,000, a tax of 3½ per cent.; on incomes from \$15,000 to \$23,000, a tax of 4 per cent.; on incomes from \$23,000 to \$35,000, a tax of 4½ per cent.; on incomes from \$35,000 to \$50,000, a tax of 5 per cent.; on incomes from \$50,000 to \$100,000, a tax of 8 per cent.; on incomes from \$100,000 upward, a tax of 10 per cent.

Mr. Speaker, each advance of tax is not on the whole amount, but upon each increment respectively. To illustrate: A, B, and C have respectively incomes of \$5,000, \$10,000, and \$15,000. Each pays a tax on the first \$5,000. Then B and C pay a tax of 3½ per cent. on the second \$5,000, which B and C have, but which A has not. Then C pays a tax of 4 per cent. on the third \$5,000, which he has, but which A and B have not.

Mr. Speaker, of all taxes which can be levied an income tax is the fairest, for it falls upon those who have. It takes of a man's profits, and not of his capital. It has been unpopular in this country for two reasons. First, because since the pyramids were piled up by forced labor the science of taxation has been to levy upon the masses and to exempt the rich. The rich control the press, and the press fights every system of taxation which presses upon its owners. And next, our old income tax was obnoxious because of its high ratio. Had it been started on a moderate ratio, it would have been as popular as any other system of taxation. It is popular in Prussia and Switzerland where it is low. In England, where it has been as a war measure very high, it was very unpopular. But at the present rates it is retained as a regular means of raising revenue.

The enemies of an income tax would rather commence at a high

rate on low incomes than at a low rate, for thus they would hope to make it unpopular, and then repeal it. But if it be made moderate, it will grow in popularity. And I believe it will not be considered inquisitorial. At least, in the interest of the poor man, let us give it a fair trial. All present Federal taxes except that upon banks are a tax on consumption, and consumption presses hardest upon the poor.

[Here the hammer fell.]

Mr. McCOOK. I have no disposition to make a point of order, but I wish to save time.

The SPEAKER *pro tempore*. The Clerk is engaged in reading the proposed amendment.

Mr. KELLEY. I make the point of order that there is a bill now pending in the House, which it is attempted to attach to the bill now under consideration.

The SPEAKER *pro tempore*. The Chair at first supposed that this was a bill which had been reported by the Committee of Ways and Means; but the gentleman from Illinois, who offers the amendment, states that the percentage of tax proposed to be levied is different from that proposed in the bill of the Committee of Ways and Means. If that is so—

Mr. BURCHARD. This is not the bill which the gentleman from Virginia [Mr. TUCKER] reported from the Committee of Ways and Means.

Mr. KELLEY. It's the same bill in phraseology and structure, with a simple modification of some of the rates.

Mr. TUCKER. Oh, no; this is a very different bill from the one reported by the Committee of Ways and Means.

Mr. HARRISON. It is not the same bill. It embraces the same machinery; but the rates and progression of the tax are different.

Mr. TUCKER. Entirely.

Mr. KELLEY. The substantial parts of the two bills are identically the same.

Mr. HOOKER. I rise to a point of order. I do not think that these propositions of the gentleman from Illinois—

The SPEAKER *pro tempore*. The Chair will state that the Clerk has not yet read the whole of the amendment; and unless it be dispensed with by unanimous consent the reading must proceed.

Mr. PAGE. I understand, Mr. Speaker, that there is a point of order now pending upon the amendment.

The SPEAKER *pro tempore*. But the Chair cannot decide the point of order without hearing the amendment read.

Mr. PAGE. Cannot the Chair decide the point of order upon the portion that has been already read?

The SPEAKER *pro tempore*. According to Rule 48 it is not in order to introduce by way of amendment to a proposition under consideration in the House any other bill or resolution pending before the House; but it is in order to introduce by way of amendment the substance of any other proposition or bill pending before the House. The gentleman from Illinois states that this proposition varies materially from the bill reported by the Committee of Ways and Means.

Mr. HOOKER. I understand that the proposition of the gentleman from Illinois is the exact substance of what is contained in another bill upon an independent subject. I have understood the ruling of the Chair to be on various appropriation matters, including one which I had the honor to introduce myself the other day, that where there is a bill pending embracing a particular subject-matter, it is out of order to attach that bill by way of amendment to an appropriation bill or a revenue bill.

It must be apparent, Mr. Speaker, that this amendment of the gentleman from Illinois is upon an independent subject-matter and therefore subject to the point of order that it is not in consonance with the bill under consideration. It is very evident that the effect of this proposition—I do not say its object—is to defeat the bill we have now under consideration, which is a general revenue bill with reference to particular subject-matters referred to in it and having no relation to the subject-matter embraced in this amendment. I therefore make the point of order that the amendment is not congruous with the bill under consideration and ought not to be considered by the House.

Mr. HARRISON. I distinctly stated that a portion of this bill, containing the machinery by which an income tax can be put in operation, is the same as that embraced in the bill reported by the Committee of Ways and Means in connection with the tobacco tax. Sir, this is a proposition for raising revenue. By our reduction of the tax on tobacco we reduce the revenues of the Government, and by this amendment I propose to raise revenue.

The SPEAKER *pro tempore*. This discussion is not relevant to the point of order.

Mr. HARRISON. I am not arguing the question.

Mr. HOOKER. Hold him to the point of order.

Mr. HARRISON. If that is not in order what would be?

The SPEAKER *pro tempore*. Nothing is in order except discussion of the point of order.

Mr. HARRISON. That is what I am discussing. I introduced a bill. Afterward, a bill something like it was introduced by the Ways and Means Committee in connection—

Mr. ATKINS. Let me ask the gentleman a question?

Mr. HARRISON. Yes, sir.

Mr. ATKINS. Has the gentleman offered this as a rider to this bill for the purpose of killing it or has he offered it in good faith?

Mr. HARRISON. I say to the gentleman I never yet tried to kill any good measure. I voted for the reduction of the tax on tobacco because I believed the people wanted it. I want the income tax brought in.

Mr. ATKINS. Does the gentleman believe his amendment would facilitate the passage of this bill?

Mr. HARRISON. Ah! that is another question.

Mr. ATKINS. Ah! that is the question; that is the very marrow of the question.

The SPEAKER *pro tempore*. The gentleman from Illinois is entitled to the floor on the point of order, but not on the merits of the proposition.

Mr. HARRISON. I took the Ways and Means bill. [Cries of "Order!"] I will wait, Mr. Speaker, until the Chair gets order in the House.

The SPEAKER *pro tempore*. Gentlemen must resume their seats and preserve order.

Mr. WOOD. The gentleman from Illinois is entirely mistaken. It is not the bill reported from the Committee of Ways and Means.

Mr. HARRISON. Just wait a moment. The bill was introduced from the Ways and Means Committee to reduce the tax on tobacco, and in connection therewith was introduced also a section levying a tax on incomes. That bill was brought into the House. That bill has not been pressed. The gentleman from Virginia [Mr. TUCKER] of the Ways and Means Committee has part of that bill introduced and put on another revenue bill. I then introduced a new amendment, borrowing part of the Ways and Means bill, merely the machinery to enable the revenue collectors to collect the income tax.

Mr. TUCKER. I rise to a question of order. My friend from Illinois is speaking to the amendment and not to the point of order.

The SPEAKER *pro tempore*. The Chair has endeavored to confine the gentleman to the point of order.

Mr. TUCKER. I am willing to hear anything on the point of order, but he is discussing the amendment. [Cries of "Vote!" "Vote!"]

Mr. SAYLER. I desire it emphatically understood [cries of "Vote!" "Vote!"] that the income bill offered by the gentleman from Illinois is not the income bill reported by the Ways and Means Committee. That committee reported a well-matured and in my judgment very sensible bill.

Mr. HARRISON. I have the floor.

Mr. SAYLER. That bill of the committee I would readily support. I question whether the gentleman's bill is well-matured or sensible. [Laughter.] We ought to know something about it before we pass it.

Mr. HARRISON. I think I have the right to reply to the gentleman from Ohio.

The SPEAKER *pro tempore*. The gentleman has had the floor once on the point of order.

Mr. HOOKER rose.

The SPEAKER *pro tempore*. The gentleman from Mississippi has had the floor once on the question of order. He is not in order now.

Mr. TOWNSEND, of New York. The gentleman from Illinois made his speech last night. [Laughter.]

Mr. WHITE, of Pennsylvania. Has not the gentleman from Illinois the floor?

The SPEAKER *pro tempore*. He has consumed his time.

Mr. WHITE, of Pennsylvania. I wish to say to the gentleman from Illinois—

The SPEAKER *pro tempore*. The gentleman is not entitled to the floor. If any gentleman desires to address the Chair on the point of order, the Chair will hear him.

Mr. BANKS. Is the point of order pending?

Mr. BURCHARD. I wish to address the Chair on the point of order.

The SPEAKER *pro tempore*. The Chair will hear the gentleman.

Mr. BURCHARD. I hold in my hand the bill to which my colleague on the committee referred, which was reported by the gentleman from Virginia. It embraces three provisions, consisting of two sections. The first section is the bill relating to the reduction of the tax on tobacco.

Mr. HARRISON. Very good.

Mr. BURCHARD. This is evidently a different bill.

Mr. TOWNSEND, of New York. Let them both be read and let us compare them. [Laughter.]

Mr. BURCHARD. I send to the Clerk's desk the bill referred to so the Chair can compare them. This is a different bill in its provisions from that bill of the Ways and Means Committee.

The SPEAKER *pro tempore*. The gentleman from Massachusetts has the floor on the point of order.

Mr. BANKS. I object to this bill or amendment which is proposed by the gentleman from Illinois on the ground it is a bill which has been and is now pending elsewhere, and the rule prohibits the introduction of any such bill as an amendment, because it impedes and corrupts legislation to load one bill with other bills as amendments, and gives an unfair advantage to a member who introduces a bill in which he may be interested with the chances of its consideration and report by one committee and afterward to tack it on another bill which may come before the House as a question of privilege or in the regular order of business. Such an amendment gives a member an advantage which is unjust to every other member and every other

subject or bill before the House. It is therefore prohibited by the rule, and the Chair is bound to enforce that prohibition strictly, because it is in the last degree both unjust as to the subject and the advantage which it gives to the member who moves it. The original rule of the House prohibited a bill being introduced as an amendment to another bill which embraced even "the substance" of a pending bill; that is, it prohibited a bill of the same general import. But I do not mean to insist that that is the rule or practice of the House now, but where an amendment is substantially the same in import and phraseology, even though it may be changed to some extent in expression or in rates, but still being of the same general expression and import, it still comes within the existing rule and practice, and is prohibited because it gives a member an unjust advantage by imposing by different methods his bill on the House that no other member has or ought to have.

Mr. HOOKER. I ask the Chair to decide the question.

The SPEAKER *pro tempore*. The Chair is about to decide it.

Mr. BURCHARD. I desire to ask the gentleman from Massachusetts [Mr. BANKS] if it is out of order to take a section of a bill and modify it and offer it as an amendment to another bill? That is the question here.

Mr. BANKS. I cannot say how that might be, because the proposition is too indefinite, but I would say to gentlemen that if a member shall take a bill which is pending before the House or its committees and move it as an amendment to a bill which happens to be before the House, it is clearly out of order and ought to be so decided.

The SPEAKER *pro tempore*. The Chair is ready to decide the question of order. The gentleman from New York [Mr. McCook] made the question of order against the proposed amendment upon the grounds, first, that it was in substance a bill already before the House; and secondly, that it was not germane to the bill now under consideration.

In regard to the first point, the Chair will say that if the gentleman will look at Rule 48, and the history of that rule as given in the Digest, he will find that when first introduced the rule proposed to prohibit the offering of the substance of any proposition or bill pending as an amendment to another bill; but the word "substance" was stricken out and ever since it has been held in the House that while it is not in order to offer the identical words of a bill already pending as an amendment to another bill, it is in order to offer the substance of a pending proposition.

In regard to the second point: this is a bill in relation to the internal revenue. It is competent, in the opinion of the Chair, on this bill, as has already been done in certain parts of it, to increase taxes, to diminish taxes, to repeal taxes, or to create taxes, provided that it be an internal-revenue tax, and the Chair therefore feels obliged to rule that the amendment is in order. [Cries of "Vote!" "Vote!"]

The Clerk resumed the reading of the amendment, but before concluding,

Mr. HOOKER. I move to suspend the rules and dispense with the further reading of the amendment.

The SPEAKER *pro tempore*. The Chair would remark that there is but one clause of the amendment to be read, which is a very short one.

Mr. HARRISON. I ask the friends of this amendment—

Mr. HOOKER. I rise to a point of order.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. HARRISON. If the gentleman will be satisfied—

Mr. HOOKER. I rise to a point of order, and will not be satisfied without a decision of the Chair. The point of order I make is this: a few days ago a motion to suspend the rules and pass a bill was made. I made the point of order that a member had the right to call for the reading of the bill. The then incumbent of the chair, the Speaker of this House, ruled that a suspension of the rules suspended the right of a member to call for the reading. I therefore now move to suspend the rules in order to dispense with the further reading of this amendment; and I think according to the ruling of the permanent Speaker of the House that motion is in order, and I submit it to the present incumbent of the chair.

Mr. HARRISON. I desire to make a proposition. I will withdraw this amendment if the House will give me a separate vote on the income-tax bill.

Mr. WHITE, of Pennsylvania. No; go on with it.

Mr. CABELL. The object and effect of the gentleman's amendment is to kill this tobacco bill. [Cries of "Regular order!"]

Mr. HARRISON. If the majority of the House think that is the effect of the amendment [loud cries of "Order!" "Order!"] I will withdraw it if I can have a separate vote upon the income-tax bill.

Mr. CABELL. There is a separate bill pending before the House for that purpose; and if the gentleman will wait until that is reached upon the Calendar, he can have a vote if he desires it; but do not attach your amendment to this bill.

Mr. HOOKER. I object, and insist upon a ruling upon my point of order.

The SPEAKER *pro tempore*. There is but one clause of the amendment to be read. The Chair will say to the gentleman from Mississippi [Mr. HOOKER] that there has been no motion to suspend the rules in regard to this amendment.

Mr. HOOKER. I make it now.

The SPEAKER *pro tempore*. Therefore the ruling to which the gentleman alludes as having been made by the regular presiding officer of the House a few days ago does not apply here. The Chair directs the Clerk to proceed with the reading of the amendment.

The Clerk resumed and concluded the reading of the amendment as before given.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had agreed to the resolution of the House fixing the time for the final adjournment of the two Houses of Congress at four o'clock on the afternoon of Tuesday the 18th of June current.

The message further announced that the Senate had agreed to amendments of the House of Representatives to the bill (S. No. 931) granting a pension to James Shields.

The message further announced that the Senate had passed bills of the House of the following titles, with amendments in which he was directed to ask the concurrence of the House:

A bill (H. R. No. 923) supplementary to the act entitled "An act to carry into effect the convention between the United States and China, concluded on the 8th day of November, 1858, at Shanghai," approved March 3, 1859, and to give the Court of Claims jurisdiction in certain cases; and

A bill (H. R. No. 4024) to provide for the holding of a term of the district court of the United States at the city of Charlotte, North Carolina.

The message further announced that the Senate had passed bills of the House of the following titles:

A bill (H. R. No. 431) to provide for the holding of terms of the district and circuit courts of the United States at Fort Wayne, Indiana;

A bill (H. R. No. 477) granting a pension to Anna Koeninger, widow of Lewis Koeninger, late private Second Indiana Battery;

A bill (H. R. No. 636) granting a pension to Oliver H. Irons, late sergeant Company D, Twenty-third Michigan Volunteers;

A bill (H. R. No. 1348) to restore the name of Jesse Stallings, of Butler County, Alabama, to the pension-list;

A bill (H. R. No. 4075) granting a pension to Ezra O. Nye, Company K, Nineteenth Michigan Volunteers;

A bill (H. R. No. 4374) granting a pension to Sarah J. Goss; and

A bill (H. R. No. 5179) relative to examinations for promotions in the Navy.

## INTERNAL REVENUE.

The House resumed the consideration of the internal-revenue bill.

The SPEAKER *pro tempore*. The question is on the amendment of the gentleman from Illinois, [Mr. HARRISON,] which has been read.

Mr. HARRISON. I rise to make an inquiry— [Cries of "Vote!" "Vote!"]

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. HARRISON. If I withdraw this amendment—

Mr. MORSE. I object to the withdrawal.

Mr. HARRISON. Can I have a vote? [Cries of "Vote!" "Vote!"]

The SPEAKER *pro tempore*. That is not a question for the Chair to determine.

Mr. FRANKLIN. I object to any more conundrums. [Laughter.]

The SPEAKER *pro tempore*. The gentleman from Illinois [Mr. HARRISON] is entitled to the floor upon his amendment if he desires to be heard.

Mr. TUCKER. If the gentleman from Illinois does not claim the floor—

The SPEAKER *pro tempore*. The gentleman from Virginia [Mr. TUCKER] is recognized by the Chair.

Mr. TUCKER. I have but a few words to say about this amendment, and I desire the House to hear me.

Mr. HOOKER. Let us take a vote. [Cries of "Vote!" "Vote!"]

Mr. TUCKER. I ask to be heard. [After a pause, order having been restored.] Mr. Speaker, the programme of this bill is one for the reduction of existing taxes. The proposition of the gentleman from Illinois is to impose a new tax upon the people of the country.

Whatever may be the opinion of gentlemen as to the propriety of an income tax, I call upon the friends of this bill not to permit any amendment that will defeat the purpose of this bill. Whatever my opinion might be on the subject of the income tax, I will not permit to be introduced into this bill a Trojan horse to destroy it. I ask the friends of the bill to vote down this amendment, and I call the previous question upon it.

Mr. TOWNSEND, of New York. I repel the imputation of the gentleman; it was a Greek horse and not a Trojan horse. [Laughter.]

*Timeo Danaos et dona ferentes.* I spurn the imputation of the gentleman. [Laughter.]

Mr. TUCKER. I did not mean to tread on the toes of the pious Aeneas. [Laughter.]

Mr. HARRISON. I desire to be heard.

The SPEAKER *pro tempore*. The Chair distinctly stated that the gentleman from Illinois [Mr. HARRISON] was entitled to the floor to be heard upon his amendment if he claimed it. He did not claim it, and the Chair awarded the floor to the gentleman from Virginia [Mr. TUCKER] who has this bill in charge.

Mr. HARRISON. Can I not be heard in favor of my amendment?

The SPEAKER *pro tempore*. Debate upon the amendment has been exhausted.

Mr. HARRISON. Can I not speak on my own amendment? The SPEAKER *pro tempore*. The gentleman declined to take the floor when he had a right to it.

Mr. HARRISON. I had no opportunity.

The SPEAKER *pro tempore*. The Chair expressly called upon the gentleman and informed him that he was entitled to the floor and he declined to take it.

Mr. HARRISON. In the confusion I did not hear the Chair. [Cries of "Vote!" "Vote!"] I have a right to be heard. [Renewed cries of "Vote!" "Vote!"] I say to the Chair that I did not hear him.

If gentlemen drown his voice, I am not responsible for it.

Mr. SAYLER. The gentleman from Illinois has already occupied his minute and a half.

Mr. HANNA. I rise to a parliamentary question.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. HANNA. There has been so much confusion that I and the gentlemen around me really do not know what the proposition is. [Laughter.]

Mr. SAYLER. Does the gentleman want the amendment read again? [Laughter.]

Mr. HANNA. I ask that it be read again.

The SPEAKER *pro tempore*. That requires unanimous consent.

Mr. HANNA. I ask that the amendment be again reported so that we may know what it is. [Renewed laughter.]

Mr. PAGE and others objected.

Mr. HARRISON. I ask that the parts of the amendment fixing the amount of the tax be read; I have a right to that.

The SPEAKER *pro tempore*. Is there objection?

Mr. PAGE. I object.

Mr. FRANKLIN. I move to suspend the rules and have the amendment again read. [Laughter.]

A MEMBER. That will take another half hour.

The SPEAKER *pro tempore*. The demand for the previous question is pending, and nothing can be done except by unanimous consent.

Mr. FRANKLIN. I understand that a motion to suspend the rules is in order.

The SPEAKER *pro tempore*. Not while the demand for the previous question is pending.

Mr. LOCKWOOD. Would it be in order to move to suspend the rules and let the gentleman from Illinois [Mr. HARRISON] have an hour to discuss his objection? [Laughter.]

The SPEAKER *pro tempore*. That motion would not be in order.

The previous question was seconded and the main question ordered; which was upon agreeing to the amendment of Mr. HARRISON.

The question being taken, there were—ayes 56, noes 106.

Mr. WHITE, of Pennsylvania, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 94, nays 139, not voting 58; as follows:

## YEAS—94.

Atkins,	Crittenden,	Haskell,	Reilly,
Baker, John H.	Culberson,	Hatcher,	Rice, Americus V.
Banning,	Cummings,	Henderson,	Riddle,
Bell,	Cutler,	Hewitt, G. W.	Sayler,
Bicknell,	Davidson,	House,	Schleicher,
Blackburn,	Deering,	Humphrey,	Sexton,
Boone,	Dibrell,	Hunter,	Singleton,
Bonck,	Diekey,	Keightley,	Smith, William E.
Bragg,	Dunnell,	Kenna,	Southard,
Bright,	Durham,	Kimmel,	Sparks,
Brogden,	Eden,	Ligon,	Strait,
Browne,	Evans, James L.	Marsh,	Thompson,
Burchard,	Ewing,	McKenzie,	Throckmorton,
Caldwell, John W.	Foster,	McMahon,	Townsend, R. W.
Caldwell, W. P.	Franklin,	Morgan,	Turner,
Calkins,	Fuller,	Morrison,	Turney,
Chalmers,	Gardner,	Muldrow,	Vance,
Clark of Missouri,	Garth,	Oliver,	Welch,
Clymer,	Gause,	Page,	White, Harry
Cobb,	Giddings,	Phillips,	Whitthorne,
Collins,	Hamilton,	Pollard,	Wilson,
Cook,	Harris, Henry R.	Pound,	Young.
Cox, Samuel S.	Harrison,	Price,	
Cravens,	Hartzell,	Rea,	

## NAYS—139.

Aeklen,	Clafin,	Gibson,	Kelley,
Aldrich,	Clark, Alvah A.	Goode,	Ketcham,
Bacon,	Clarke of Kentucky,	Hanna,	Landers,
Bagley,	Cole,	Hardenbergh,	Lapham,
Baker, William H.	Conger,	Harmer,	Lathrop,
Banks,	Covert,	Harris, Benj. W.	Lindsey,
Bayne,	Cox, Jacob D.	Harris, John T.	Lockwood,
Bisbee,	Crapo,	Hartridge,	Loring,
Blair,	Danford,	Hayes,	Mackey,
Bliss,	Davis, Horace	Hendee,	Maish,
Blount,	Davis, Joseph J.	Henry,	Mayham,
Boyd,	Dean,	Herbert,	McCook,
Brentano,	Denison,	Hewitt, Abram S.	McKinley,
Brewer,	Douglas,	Hooker,	Metcalfe,
Bridges,	Dwight,	Hubbell,	Monroe,
Briggs,	Eames,	Hungerford,	Morse,
Burdick,	Eickhoff,	Hunton,	Muller,
Cabell,	Elam,	Itner,	Norcross,
Cain,	Ellsworth,	James,	O'Neill,
Campbell,	Errett,	Jones, Frank	Overton,
Candler,	Evans, I. Newton	Jones, James T.	Patterson, G. W.
Cannon,	Evins, John H.	Jorgensen,	Peddle,
Carlisle,	Forney,	Joyce,	Potter,
Chittenden,	Garfield,	Keifer,	Pridemore,

Pugh,	Seales,	Stone, John W.	Williams, A. S.
Ramey,	Shallenberger,	Townsend, Amos	Williams, Andrew
Randolph,	Shelley,	Townsend, M. I.	Williams, C. G.
Reed,	Simickson,	Tucker,	Williams, James
Rice, William W.	Smalls,	Veeder,	Williams, Richard
Robbins,	Smith, A. Herr	Waddell,	Willis, Albert S.
Roberts,	Springer,	Wait,	Willis, Benj. A.
Robertson,	Starn,	Walker,	Willits,
Robinson, G. D.	Steele,	Ward,	Wood,
Ross,	Stenger,	Warner,	Yeates.
Sampson.	Stewart,	White, Michael D.	

## NOT VOTING—58.

Aiken,	Freeman,	Manning,	Slemmons,
Ballou,	Frye,	Martin,	Stephens,
Boebe,	Glover,	McGowan,	Stone, Joseph C.
Benedict,	Gunter,	Mills,	Swann,
Bland,	Hale,	Mitchell,	Thornburgh,
Buckner,	Hart,	Money,	Tipton,
Bundy,	Hazelton,	Neal,	Van Vorhes,
Butler,	Henkle,	Patterson, T. M.	Walsh,
Camp,	Hiscock,	Pelphs,	Watson,
Caswell,	Jones, John S.	Powers,	Wigginton,
Clark, Rush	Killinger,	Quinn,	Williams, Jere N.
Ellis,	Knapp,	Reagan,	Wren,
Felton,	Knott,	Robinson, M. S.	Wright.
Finley,	Luttrell,	Ryan,	
Fort,	Lynde,	Sapp,	

So the amendment was not agreed to.

During the roll-call the following announcements were made:

Mr. HISCOCK. I am paired with the gentleman from West Virginia, Mr. MARTIN. If he were present, he would vote "ay" and I should vote "no."

Mr. FREEMAN. I am paired with the gentleman from Arkansas, Mr. SLEMMONS.

Mr. JONES, of Ohio. I am paired with the gentleman from Missouri, Mr. BLAND. Were he present, I should vote "no."

Mr. RYAN. I am paired with the gentleman from Georgia, Mr. STEPHENS. If he were present, I should vote in the affirmative.

Mr. WILLIAMS, of Wisconsin. The gentleman from Maine, Mr. FRYE, is paired with the gentleman from Kentucky, Mr. KNOTT. My colleague, Mr. HAZELTON, is detained from the House by sickness.

Mr. FORT. I am paired with the gentleman from Mississippi, Mr. MANNING.

Mr. SAPP. I am paired with the gentleman from California, Mr. WIGGINTON.

Mr. MCGOWAN. I am paired with the gentleman from Arkansas, Mr. GUNTER. If he were here, I should vote "no."

Mr. DAVIS, of California. My colleague, Mr. LUTTRELL, is detained from the House by sickness.

Mr. BRAGG. My friend, Hon. HENDRICK B. WRIGHT, has been suddenly called away, without knowledge that this measure was coming up. If he were present, he would certainly vote "ay." [Laughter.]

Mr. CHALMERS. My colleague, Mr. MONEY, is confined to his room by sickness.

Mr. HARRIS, of Virginia. I voted for a tax on incomes in the earlier part of this session, but as the object of this amendment is to kill the present bill and of course defeat both measures, I vote "no."

Mr. LOCKWOOD. My colleague, Mr. BENEDICT, is paired with my colleague, Mr. CAMP. If present, Mr. BENEDICT would vote "no" and I think Mr. CAMP would vote the same way.

The result of the vote was announced as above stated.

Mr. TUCKER moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

Mr. PHILLIPS. I desire to offer an amendment to this paragraph.

Mr. TUCKER. The previous question has been ordered on the whole paragraph.

The SPEAKER *pro tempore*. The Chair did not understand the gentleman from Virginia to move the previous question on the paragraph, but only on the pending amendment.

Mr. SAYLER. On the paragraph and pending amendment.

The SPEAKER *pro tempore*. The Chair will refer to the Journal. The Journal shows that the gentleman from Virginia did demand the previous question upon the paragraph and pending amendment. Such being the case, no further amendment is in order. The Clerk will read the next paragraph.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed, with amendments in which the concurrence of the House was requested, the bill (H. R. No. 5070) to detach certain territory from the eastern judicial district of Michigan and to attach the same to the western judicial district of Michigan, and to provide for the divisions of said western district and for holding the district and circuit courts therein, and for other purposes.

The message also announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

An act (S. No. 1099) to provide for the settlement of tax-lien certificates erroneously issued by the late authorities of the District of Columbia;

An act (S. No. 1344) relating to tax sales and taxes in the District of Columbia; and

An act (S. No. 1380) granting a pension to Josiah Kellogg.

## INTERNAL-REVENUE BILL.

The House resumed the consideration of the bill (H. R. No. 4414) to amend the laws relating to internal revenue.

The Clerk read as follows:

## BANKS AND BANKERS.

SEC. 18. Whenever and after any bank has ceased to do business by reason of insolvency or bankruptcy, no tax shall be assessed against or collected from said bank, under the laws of the United States, which shall diminish the assets thereof necessary for the full payment of all its depositors; and such tax shall be abated from such national banks as shall be found by the Comptroller of the Currency to be insolvent; and the Commissioner of Internal Revenue, when the facts shall so appear to him, is authorized to remit so much of said tax against State and savings banks as shall be found to affect the claims of said depositors.

Mr. TUCKER. I offer the following amendment, to come in after that, and ask the previous question on the paragraph and amendment. The Clerk read as follows:

Amend section 3410 of the Revised Statutes by adding at the end of the first clause, in the eighth line, the words following:

*Provided, however,* That no bank or banker shall be liable to said tax upon any sum under the name of deposits which shall appear to be deposited with any other bank or banker, and which is subject to tax as deposits with such last-named bank or banker: *And provided further,* That no funds belonging to any State which shall be on deposit in any bank or banking institution shall be liable to taxation by the Government of the United States; nor shall any such bank or banking institution holding such funds on deposit to the credit of any State be required to pay tax on the same as deposits, or in any other manner whatever.

Mr. COX, of Ohio. The gentleman from Virginia permits me to enter a motion to strike out the whole section.

Mr. BURCHARD. I hope the gentleman will not demand the previous question, as there are other amendments to be offered to this section.

Mr. COX, of Ohio. I move to strike out the entire section.

Mr. SAYLER. That can be done after the section is perfected.

Mr. BURCHARD. I wish to offer an amendment to the section.

Mr. VANCE. The gentleman from Virginia has demanded the previous question.

The SPEAKER *pro tempore*. The Chair understands that he withdraws it to allow the gentleman from Ohio to move to strike out the section.

Mr. PAGE. Amendments to the section are first in order before the motion to strike out is made.

The SPEAKER *pro tempore*. The vote must be first on the motion of the gentleman from Virginia, as that is to perfect the section.

Mr. BURCHARD. There are three amendments recommended by the Committee of Ways and Means; one I was instructed by the committee to offer or permit to be offered which the gentleman from California [Mr. PAGE] has charge of; one I propose to offer, and another the gentleman from Virginia has offered, which was in the bill he had charge of. I hope these three amendments will be allowed to be offered, and then the previous question can be called.

Mr. MCCOOK. I hope it will not be, as I have an amendment to offer.

The SPEAKER *pro tempore*. There cannot be three amendments pending at the same time.

Mr. BURCHARD. Only by unanimous consent to be voted on in their order.

Mr. TUCKER. If I may be allowed I will withdraw the demand for the previous question for the present, and also withdraw the amendment I sent up to the Chair. If the gentleman from Ohio wishes, however, to strike out the section I am perfectly willing he shall be allowed to do so.

Mr. COX, of Ohio. I make that motion.

Mr. PAGE. Let the amendments to perfect the section be first offered.

The SPEAKER *pro tempore*. The gentleman from Ohio moves to strike out the entire section. The gentleman from Illinois moves to amend, and the question will be taken on the amendment before the motion to strike out is voted on.

Mr. BURCHARD. I ask that my amendment be read.

The Clerk read as follows:

Amend section 3408 of the Revised Statutes, as follows: Strike out all of paragraph entitled "first" and insert in lieu thereof the following:

First. A tax of one twenty-fourth of 1 per cent. each month upon the average amount of the deposits of money, subject to payment by check or draft or represented by certificates of deposit or otherwise, whether payable on demand or at some future day, and including as deposits money received for execution of orders for purchases or payments for account of others money received to be remitted to other parties, and money received by way of collateral security, with any person, bank, association, company, or corporation engaged in the business of banking: *Provided,* That the balance of the deposits of each day from which the average monthly deposits is ascertained shall be the entire amount of deposits remaining to the credit of depositors at the close of business for the day.

Mr. BURCHARD. That amendment is recommended by the Secretary of the Treasury and the Commissioner of Internal Revenue.

Mr. PATTERSON, of New York. That is a tax on what a man owes.

Mr. EDEN. No; but on what he loans.

Mr. PATTERSON, of New York. No; upon what he owes.

The SPEAKER *pro tempore*. The Chair will state the question to the House. The gentleman from Ohio moves to strike out section 18. Pending that the gentleman from Illinois moves to perfect the section by adding what has just been read.

Mr. SAYLER. Pending that I move to suspend the rules and strike out the remaining sections of the bill, including section 18.

Mr. WHITE, of Pennsylvania. I call for the yeas and nays on the motion to suspend the rules.

On the question of ordering the yeas and nays there were yeas 13; not a sufficient number.

Mr. WHITE, of Pennsylvania. I call for tellers on ordering the yeas and nays.

On the question of ordering tellers there were yeas 31; not a sufficient number.

So tellers were refused, and the yeas and nays were not ordered.

The SPEAKER *pro tempore*. The question is on the motion of the gentleman from Ohio [Mr. SAYLER] to suspend the rules and strike out the remaining sections of the bill.

Mr. WHITE, of Pennsylvania. I ask that these sections be read for the information of the House before we are called upon to vote upon them.

The SPEAKER *pro tempore*. That is the gentleman's right.

Mr. EDEN. Not while the House is dividing.

The SPEAKER *pro tempore*. The House is not dividing.

Mr. PRIDEMORE. I rise to a question of order. The chair, I remember, very recently, when a motion was made to suspend the rules and pass an appropriation bill, upon my own request to have the bill reported, ruled that when a motion to suspend the rules was made the reporting of the bill could not be had.

The SPEAKER *pro tempore*. The present occupant of the chair does not think it has ever been decided that a member could be forced to vote upon a proposition without hearing it read. In the case to which the gentleman from Virginia alludes the bill had once been read according to the recollection of the present occupant of the chair.

Mr. HARRIS, of Virginia. I call for the regular order.

The SPEAKER *pro tempore*. The Clerk will read the sections proposed to be stricken out.

The Clerk proceeded to read the remaining sections of the bill.

Mr. MCGOWAN, (interrupting.) I ask that the further reading be dispensed with.

Mr. WHITE, of Pennsylvania. I object.

The Clerk resumed and concluded the reading of the remaining sections of the bill.

The SPEAKER *pro tempore*. The question is on the motion of the gentleman from Ohio, [Mr. SAYLER], that the rules be suspended and that the remaining sections of the bill be stricken out.

Mr. BURCHARD. Does that motion include section 18?

The SPEAKER *pro tempore*. It does.

The question being taken, there were—yeas 96, noes 64.

So (two-thirds not voting in the affirmative) the rules were not suspended.

The SPEAKER *pro tempore*. The question is on the amendment of the gentleman from Illinois [Mr. BURCHARD] to the eighteenth section of the bill.

The question being taken, there were—yeas 46, noes 50.

The SPEAKER *pro tempore*. The "noes" have it. The Clerk will read the next section.

Mr. FOSTER. A quorum has not voted.

Mr. FRANKLIN. The point that a quorum has not voted is made too late.

The SPEAKER *pro tempore*. It was made in time.

Mr. FOSTER. I move that the House do now adjourn.

Mr. KENNA. I move that we take a recess until nine o'clock Monday morning.

The SPEAKER *pro tempore*. The motion to adjourn takes precedence.

The question being taken on the motion to adjourn, there were—yeas 106, noes 65.

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

Mr. PAGE. I ask for tellers.

Mr. GARFIELD. I ask that, by unanimous consent, the gentleman from Ohio change his motion to adjourn to a motion for a recess until ten o'clock on Monday.

Mr. FRANKLIN. I demand the regular order.

The SPEAKER *pro tempore*. The question is on ordering tellers.

Tellers were ordered, there being yeas 37; more than one-fifth of a quorum.

Mr. FRANKLIN. I desire to make a parliamentary inquiry. Is it competent for a member to demand the yeas and nays whether tellers are demanded or not?

The SPEAKER *pro tempore*. The demand for tellers was made first.

Mr. FRANKLIN. I think I demanded the yeas and nays before tellers were demanded.

The SPEAKER *pro tempore*. If the gentleman from Missouri did so the Chair did not hear him.

Mr. SAYLER. I hope the gentleman who made the motion to adjourn will modify it and move that we take a recess till ten o'clock on Monday morning.

Mr. FOSTER. I will agree to that.

Mr. FRANKLIN. If the friends of the bill desire to abandon it, I will withdraw the demand for the yeas and nays.

Mr. FOSTER. I withdraw the motion to adjourn and move that the House take a recess until ten o'clock on Monday morning.

Mr. WHITE, of Pennsylvania. I move that the House do now adjourn.

Mr. HARRIS, of Virginia. On that motion I demand the yeas and nays.

The question being taken on ordering the yeas and nays, there were yeas 34; not one-fifth of the last vote.

So the yeas and nays were not ordered.

Mr. HANNA. I ask unanimous consent that we take a recess till ten o'clock on Monday morning. [Cries of "Regular order!"]

The SPEAKER *pro tempore*. The question is on the motion to adjourn.

Mr. HARRIS, of Virginia. I call for tellers on the question of ordering the yeas and nays.

Tellers were not ordered, only 10 voting in the affirmative.

Mr. HANNA. I move that the House take a recess till ten o'clock on Monday morning.

The SPEAKER *pro tempore*. The question is on the motion to adjourn.

Mr. HARRIS, of Virginia. If the motion to adjourn is voted down, will the motion to take a recess be then in order?

The SPEAKER *pro tempore*. It will.

Mr. HARRIS, of Virginia. Then I hope the motion to adjourn will be voted down.

Mr. GARFIELD. I move that the rules be suspended and that the House take a recess until ten o'clock on Monday morning.

The SPEAKER *pro tempore*. The Chair cannot entertain a motion to suspend the rules pending a motion to adjourn.

The question being taken on the motion to adjourn, there were—yeas 91, noes 64.

Mr. SPRINGER. I call for tellers on the motion to adjourn.

The SPEAKER *pro tempore*. Tellers have been refused.

Mr. SPRINGER. My recollection is that the yeas and nays were refused, but not that tellers were refused.

So the motion to adjourn was agreed to; and accordingly (at eleven o'clock and thirty-five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk, under the rule, and referred as stated:

By the SPEAKER. The petition of Mary T. Eastman, Henrietta T. L. Woolcott, and others, officers of the Association for the Advancement of Women, that the tenth census may contain a just enumeration of women as laborers and producers; also, wages of women; also, causes of pauperism, vice, and crime; also, that women may be employed to collect vital statistics concerning women and children—to the Committee on the Census.

By Mr. LUTTRELL: Resolutions of the Legislature of California, asking the passage of the bill introduced by Hon. CHARLES M. SHELLEY, of Alabama, restricting Chinese immigration—to the Committee on Education and Labor.

Also, resolutions of the Legislature of California, asking for the dedication of the Presidio reservation, San Francisco, California, for the purpose of a public park—to the Committee on Military Affairs.

Also, resolutions of the Legislature of California, favoring the immediate recognition of the Diaz government of Mexico—to the Committee on Foreign Affairs.

By Mr. PHELPS: The petition of Edward Smith and Jennette L. Cowles, administratrix of Sidney Cowles, deceased, for the extension of a patent hay-rake—to the Committee on Patents.

By Mr. ROBBINS: A paper relating to the establishment of a post-route from Taylorsville to Brushy Mountain, North Carolina—to the Committee on the Post-Office and Post-Roads.

By Mr. ROBINSON, of Massachusetts: The petition of Byron Weston and others, of Dalton, Massachusetts, that all resolutions and proceedings affecting the President's title be indefinitely postponed—to the committee to investigate alleged frauds in the late presidential election.

By Mr. STEVENS, of Arizona: The petition of citizens of Arizona Territory, for the improvement of the navigation of Colorado River—to the Committee on Commerce.

By Mr. WRIGHT: The petition of 256 citizens of Cleveland, Ohio, for material aid to settle poor people on the public lands—to the Committee on Public Lands.

#### IN SENATE.

MONDAY, June 17, 1878.

The Senate met at eleven o'clock a. m.

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

The Secretary proceeded to read the Journal of the proceedings of Saturday last, when, on motion of Mr. INGALLS, and by unanimous consent, the further reading was dispensed with.

#### PETITIONS.

Mr. INGALLS presented the petition of Mrs. Rebecca Williams, mother of Lloyd A. Williams, late a chief engineer in the United States Navy, praying to be granted a pension; which was referred to the Committee on Pensions.

Mr. MATTHEWS presented the petition of Hugh McGlencey, of Cincinnati, Ohio, praying for the passage of an act granting him balance of compensation due him under a contract with the Government