Also, the petition of A. Michael and others, that a Department of Agriculture be established—to the Committee on Agriculture.

By Mr. ERRETT: Resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, asking an appropriation for the erection of two or more ice-breakers on the Ohio and Mississippi Rivers—to the Committee on Commerce.

By Mr. HEILMAN: Resolutions of the Legislature of Indiana, asking an appropriation of $100,000 for the improvement of the Kankakee River—to the Committee on Commerce.

By Mr. HUMPHREY: The petition of T. W. Richards, Job Bassett, and others, of Wisconsin, against the passage of the sixty-surgeons bill—to the Committee on Invalid Pensions.

By Mr. JOYCE: The petition of citizens of Vermont, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. KLOTZ: The petition of 18 soldiers of Luzerne County, Pennsylvania, of similar import—to the same committee.

By Mr. LADD: The petition of F. L. Towne and 26 others, citizens of Dover, Maine, that the Bureau of Agriculture be made a department—to the Committee on Agriculture.

Also, the petition of E. J. Durham and 30 others, citizens of Dover, Maine, for legislation regulating interstate commerce—to the Committee on Commerce.

Also, the petition of the same parties, for legislation to protect innocent purchasers against fraudulent venders of patents—to the Committee on Patents.

By Mr. McGOWAN: The petition of J. S. Buckley and 20 others, citizens of Branch County, Michigan, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. MYERS: Resolutions of the General Assembly of Indiana, asking an appropriation for the improvement of the Kankakee River, in Indiana—to the Committee on Commerce.

Also, the petition of Aug. Lempp and 24 others, citizen soldiers of Dayton, Ohio, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. OVERTON: The petition of G. E. McKune and 14 others, members of the Grand Army of the Republic of Pennsylvania, of similar import—to the same committee.

By Mr. THOMAS RYAN: The petition of soldiers of Larned, Kansas, for the passage of Senate bill No. 496—to the same committee.

By Mr. SAPP: The petition of citizens of Iowa, that soldiers discharged for disease receive the same bounty as those discharged on account of wounds—to the Committee on Military Affairs.

By Mr. SHERWIN: The petition of W. M. Smith and 12 others, soldiers, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. STEELE: Resolutions of the Legislature of North Carolina, asking a survey of Oregon Inlet, Dare County, North Carolina—to the Committee on Commerce.

Also, resolution of the Legislature of North Carolina, asking that the Commissioner of Agriculture be made Secretary of Agriculture and a member of the President's Cabinet—to the Committee on Agriculture.

Also, resolution of the Legislature of North Carolina, asking the passage of the bill (H. R. No. 6741) to exempt from duties all machinery used in the manufacture of cotton thread and cotton goods—to the Committee on Ways and Means.

By Mr. STEVENSON: The petition of soldiers of McLean County, Illinois, against the passage of the sixty-surgeon pension bill—to the Committee on Invalid Pensions.

By Mr. TALBOTT: The petition of certain messengers of the House of Representatives, for equalization of salaries—to the Committee on Accounts.

By Mr. WARNER: The petition of W. A. Duval and others, for the enactment of an income-tax law—to the Committee on Ways and Means.

Also, the petition of J. W. Fellows and others, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

Also, the petition of William A. Duval and others, citizens of Ohio, that the Commissioner of Agriculture be made a Cabinet officer—to the Committee on Agriculture.

Also, the petition of the same parties, for the regulation of interstate commerce—to the Committee on Commerce.

Also, the petition of the same parties, for a modification of the patent laws so as to better protect innocent purchasers of patents—to the Committee on Patents.

IN SENATE.

FRIDAY, *February* 11, 1881.

The Senate met at twelve o'clock m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a letter from the Secretary of War, transmitting a report of Captain Charles B. Phillips, Corps of Engineers, made in compliance with the river and harbor act of June 14, 1880, of an examination of Cape Fear River, North Carolina, between Wilmington and Fayetteville; which was referred to the Committee on Commerce, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. McMILLAN presented a memorial of the Legislature of Minnesota, favoring an appropriation of $1,000,000, to be expended during the fiscal year ending June 30, 1882, for the improvement of the Mississippi River, one-half of the amount to be used from Saint Paul to the Des Moines Rapids, and the remaining one-half from the Des Moines Rapids to the mouth of the Illinois River, all to be expended under the direction of the Secretary of War, and also in favor of an additional appropriation of $100,000 for the construction of sheer-booms on that river; which was referred to the Committee on Commerce.

Mr. WALLACE presented resolutions of the Chamber of Commerce of the City of Pittsburgh, Pennsylvania, remonstrating against the imposition of tonnage tax on commerce through the Louisville canal or Davis Island dam, (when completed;) which were referred to the Committee on Commerce.

Mr. GROOME presented the petition of Le Compte Post, No. 14, Grand Army of the Republic, of Preston, Caroline County, Maryland, praying for the passage of the amendment reported by the Committee on Pensions to the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

He also presented the memorial of W. H. Hamilton and others, of Chestertown, Maryland, soldiers of the late war, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and the amendments thereto; which was ordered to lie on the table.

Mr. VEST presented the petition of the Milburn Manufacturing Company, the Simmons Hardware Company, and other manufacturers and cotton dealers, of Saint Louis, Missouri, praying for the extension of what is known as the Eclipse Gin patent; which was referred to the Committee on Patents.

Mr. PADDOCK presented the petition of R. C. Eldridge and others, citizens of Nebraska, praying for the establishment of a post-route in that State, from Plainview to Fort Hartsuff; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. CONKLING presented the petition of Kate Ehle Wetmore, of Canajoharie, Montgomery County, New York, praying remuneration for services rendered the Government by her father during the war of 1812; which was referred to the Committee on Claims.

Mr. SAULSBURY presented the petition of B. D. Burton and others, citizens of Delaware, praying for an appropriation for the improvement of the Indian River in that State; which was referred to the Committee on Commerce.

Mr. McMILLAN presented the petition of Thomas Allison and others, remonstrating against the passage of a bill to extend the patent on Cook's sugar evaporators; which was referred to the Committee on Patents.

REPORTS OF COMMITTEES.

Mr. VEST, from the Committee on Mines and Mining, to whom was referred the bill (S. No. 1034) to amend section 2334 of the Revised Statutes as to publication of mining notices, reported it without amendment.

Mr. PLATT, from the Committee on Pensions, to whom was referred the petition of S. Annie Esterbrook, praying that the pension granted to her late husband be continued to her, submitted a report thereon, accompanied by a bill (S. No. 2173) for the relief of S. Annie Esterbrook.

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

Mr. PLATT, from the Committee on Pensions, to whom was referred the bill (H. R. No. 660) for the relief of Mrs. Mary A. Seaborn, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. GROOME, from the Committee on Pensions, to whom was referred the petition of Annie E. Gardiner, praying to be allowed a pension, 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 bill (S. No. 434) granting an increase of pension to Eugene O'Sullivan, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. KIRKWOOD, from the Committee on Pensions, to whom was referred the bill (S. No. 2012) granting a pension to Gottlob Schaubel, 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 petition of John Jones, of Casey County, Kentucky, praying to be allowed a pension, submitted a report thereon, accompanied by a bill (S. No. 2174) granting a pension to John Jones.

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

Mr. HEREFORD, from the Committee on Mines and Mining, to whom were referred the bill (S. No. 1918) to amend section 2324 of the Revised Statutes and the bill (S. No. 1222) concerning mineral land, reported adversely thereon, and the bills were postponed indefinitely.

Mr. WITHERS, from the Committee on Pensions, to whom was referred the petition of William Heine, praying for an increase of pension, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

AMENDMENT OF THE RULES.

Mr. MORGAN, from the Committee on Rules, reported adversely on the following resolution submitted by Mr. INGALLS and referred to that committee on the 14th of January:

Resolved, That the forty-third standing rule of the Senate be amended by striking out in line 13 the words "relating to adjournment" and inserting the words "to adjourn."

Mr. INGALLS. What is the report?

The VICE-PRESIDENT. Adverse.

Mr. INGALLS. It seems to me that must have been done without a consideration of the real purpose of the proposed amendment of the rule. Under the rule as it now stands not only a motion to adjourn is not debatable but a motion that when the Senate adjourn it adjourn to a certain day is not debatable. On several occasions heretofore that matter has resulted in great inconvenience to the Senate. The amendment was offered by me upon consultation with several members of the Senate who thought that the rule required amendment in that particular.

Under all parliamentary law that I am acquainted with the only motion relating to adjournment which is not debatable is a simple motion to adjourn; but in the nature of things a motion to adjourn to a given day, or that when the Senate adjourn it be to a certain day, ought to be debatable.

I wish that the chairman of the Committee on Rules, if the committee have not acted with great deliberation on the subject, would consent that the report be withdrawn, because on several occasions serious inconvenience has arisen by reason of the rule as it now stands.

Mr. MORGAN. The forty-third rule reads as follows:

When a question is pending no motion shall be received but—
To adjourn,
To adjourn to a day certain, or that, when the Senate adjourn, it shall be to a day certain,
To take a recess,
To proceed to the consideration of executive business,
To lay on the table,
To postpone indefinitely,
To postpone to a day certain,
To commit,
To amend;
which several motions shall have precedence in the order in which they stand arranged; and the motions relating to adjournment, to take a recess, to proceed to executive business, and to lay on the table, shall be decided without debate.

The Senate has been acting under that rule for a long time, and it has not been found to be an inconvenient rule, because whenever a motion is made to take a recess or to adjourn to a day certain unanimous consent has not been withheld for such interchange of ideas as Senators might think fitting to the occasion. It is better, as the committee understand, to leave the rule as it is, so that the consideration of a pending question cannot be impeded by a motion, for instance, to adjourn to a day certain, or that when the Senate adjourn it shall be to a day certain. Under the existing rules a Senator has the right to propose a motion of that kind in opposition to the pending question, and if upon a motion of that kind debate should be allowed to spring up and to be extended at the will and pleasure of the Senate, we should find ourselves in the midst of the consideration of some important question, I dare say involved in a debate as to adjournment to a day certain or to take a recess.

The committee have thought it was much more safe and quite as convenient that the rule should stand as it is rather than break down the usage under which the Senate has so long worked and worked so well, for the mere purpose of having debate on a question as to taking a recess or an adjournment to a day certain.

Mr. INGALLS. The rule as it now stands is an innovation. This is not the established rule of the Senate. It was adopted inadvertently when the last revision of the rules was made. I do not want to protract debate on an immaterial question, and I ask that the report may go over.

The VICE-PRESIDENT. The resolution will go on the Calendar with the adverse report of the committee.

BILLS INTRODUCED.

Mr. BECK asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2175) to appropriate money for the renovation of the records of the United States district court at Frankfort, Kentucky; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. CONKLING (by request) asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2176) granting a pension to Mrs. Clara A. Thompson; which was read twice by its title, and referred to the Committee on Pensions.

Mr. WALLACE asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 157) for the relief of the Philadelphia and Reading Railroad Company; which was read twice by its title, and referred to the Committee on Finance.

INTERNATIONAL EXHIBITION OF 1883.

Mr. KERNAN asked and, by unanimous consent, obtained leave to introduce a joint resolution (S. R. No. 156) in relation to the international exhibition of 1883; which was read the first time by its title.

Mr. KERNAN. I ask that the joint resolution be read at length with a view to asking that it be passed now, if there be no objection.

The joint resolution was read the second time at length, as follows:

Resolved by the Senate, &c., That whenever the President shall deem the preparations which shall have been made therefor adequate, he is hereby authorized and requested, in the name of the United States, to invite all foreign governments to be represented at and to take part in the international exhibition of arts, manufactures, and products of the soil and mine, to be held under the direction of the United States international commission, at the city of New York, in the State of New York, in the year 1883: *Provided, however*, That the United States shall not be liable, directly or indirectly, for any of the expenses attending such exhibition, or by reason of the invitation hereby authorized.

Mr. EDMUNDS. I think that the joint resolution ought to be printed and go to a committee.

Mr. KERNAN. I did not hear what the Senator from Vermont said; but I can suppose that, without explanation, he said the joint resolution should be referred to the Committee on Foreign Relations. I will say to him that I went to the chairman of that committee with the resolution and he read it and said he thought there was no need of such a reference, inasmuch as the invitations should be issued before another session, and it is desirable that the joint resolution should be acted upon now. It will be observed that it is very guarded; it is in the form of one adopted before, and provides expressly that there shall be no expense entailed by implication or otherwise. I should be glad to have the joint resolution passed now.

Mr. EDMUNDS. The invitation to a foreign government by the chief of this one to attend any of the numerous and pleasant festivities that we have in this country, with a clause at the end of the invitation "At your own expense," would be somewhat different from the invitations that among gentlemen here we receive and act upon to go and dine, and so on. Therefore, I should a little prefer that the Committee on Foreign Relations would think what sort of an invitation it would be if the foreign government were told that they must come at their own expense. A reference will not delay it much, and I should be glad to have that committee consider it.

Mr. KERNAN. I only want to say that this is the form of invitation adopted in reference to the former international exposition at Philadelphia, and it only invites the people of foreign governments to exhibit their articles; but if the Senator objects of course it must go to the committee.

The VICE-PRESIDENT. Shall the joint resolution be referred?

Mr. KERNAN. Not unless the Senator from Vermont objects to its present consideration.

Mr. EDMUNDS. I think it had better be referred. The committee can report it without delay after examination.

Mr. KERNAN. I shall make no objection to the reference.

The VICE-PRESIDENT. The joint resolution will be referred to the Committee on Foreign Relations.

Mr. CONKLING subsequently said: I ask that the reference of the joint resolution in relation to the world's fair be changed from the Committee on Foreign Relations to the Committee on Finance. The Committee on Finance had charge of the bill in which the exposition was conceived, and I do not think that the joint resolution had better go to another committee.

The VICE-PRESIDENT. The Chair hears no objection, and that change of reference will be made.

INAUGURATION COMMITTEE.

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

Resolved, That a committee of three Senators be appointed by the President of the Senate to make the necessary arrangements for the inauguration of the President-elect of the United States on the 4th day of March next.

Messrs. PENDLETON, ANTHONY, and BAYARD were appointed.

REFUNDING OF NATIONAL DEBT.

Mr. BAYARD. I desire to give notice to the Senate that on Monday next, at the expiration of the morning hour, I shall ask it to take up, consider, and finally dispose of the bill (H. R. No. 4592) to facilitate the refunding of the national debt. I do not now ask that a special order may be made of this measure to be considered on that day, because upon consultation with gentlemen in the Chamber I find that a special order may itself be set aside by a majority vote. Therefore, as the same control will affect the question whether the bill be made a special order or not, and the matter will be within the control of a majority of the Senate on Monday, and as I think a measure of this importance should be discussed in unbroken debate, I do not desire to call it up to-morrow, being Saturday, to have the interval of Sunday, but on Monday I shall ask at the time indicated that the Senate may proceed to discuss and dispose of this important measure.

Mr. MORRILL. I cannot doubt that the Senate generally will concur in the suggestion of the Senator from Delaware. There is no more important bill before the Senate, and unless it shall become a law I fear very much that we shall have an extra session.

AMENDMENTS TO BILLS.

Mr. PADDOCK submitted two amendments intended to be proposed by him to the sundry civil appropriation bill; which were referred to the Committee on Appropriations, and ordered to be printed.

Mr. BUTLER, Mr. JONAS, Mr. JOHNSTON, and Mr. SAULSBURY

submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. WHYTE and Mr. SLATER submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 7036) to establish post-routes; which were referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

Mr. BAYARD submitted an amendment intended to be proposed by him to the bill (H. R. No. 7104) making appropriations for the construction, completion, repair, and preservation of certain works on rivers and harbors, and for other purposes; which was referred to the Committee on Commerce, and ordered to be printed.

ARMED TROOPS AT SEAT OF GOVERNMENT.

Mr. RANDOLPH. Mr. President, I beg leave to ask the Senate to allow me now to move——

The VICE-PRESIDENT. The Chair will first inquire if there be further morning business; and on the conclusion of the morning business will recognize the Senator from New Jersey. Resolutions are now in order.

Mr. HOAR. I submit a resolution, and ask for its present consideration.

The resolution was read, as follows:

Resolved, That the Committee on the Judiciary be instructed to consider and report whether the assembling at the seat of Government of large bodies of organized and armed troops not under the command of the officers of the United States, or under national authority, be not likely to prove in future dangerous in practice, and whether any legislation or declaration of opinion on the subject by Congress be desirable.

Mr. HOAR. Mr. President, the resolution is a mere direction to the Judiciary Committee to consider this question. It does not bind the Senate to any action or opinion upon the subject. I desire, however, to be permitted to say, I suppose there is no citizen of the United States who will take more pleasure and will join more heartily in the expressions of public gratification at the approaching inauguration of the President of the United States than I shall. I think that the organizations of veteran soldiers honorably discharged from the military service of the United States ought properly and appropriately to form a part in the State pageant of that day. I trust everywhere where the American people can do honor to that class of citizens, they will as they grow older receive every possible form of public honor from the country which they have saved. But it seems to me that the persons having this matter in charge will themselves see that the establishment of the precedent of assembling large bodies of armed troops, subject to no authority present in the District, might in the past have been fraught with very serious danger, and may in the future create very serious danger, in addition to those dangers which from the nature of the case may hereafter, in troubled times, attend the transfer of executive power in a country like this from one hand to another.

In 1876 the electoral count was completed at about four o'clock in the morning of the 3d day of March, and until that hour large numbers of the American people believed that the presidential candidate who was not finally found entitled to the office had been duly elected. Suppose a practice had existed in this country under which in anticipation of the inauguration of the President the militia of the different States of the Union had assembled in large numbers and were encamped about the Capitol, who can doubt that such a condition of things would have added seriously to the difficulty and danger of that trying hour? Suppose in 1861 we had succeeded to an established practice of that kind, such a thing would, in my judgment, have proved nearly fatal to the preservation of the Republic itself.

It is therefore in no spirit of unkindness to anybody charged with these preparations, and certainly in no want of a spirit of harmony with the rejoicing and pleasure of the time when the American people are peacefully and quietly to submit to the succession of the executive power, that I call public attention to this matter.

Mr. CONKLING. Mr. President——

Mr. HOAR. I forgot to say what I intended when I rose: that in some of the States of the Union such parades of bodies of men not under the control of the State executive are prohibited by law.

Mr. CONKLING. I shall ask that the resolution lie over under the rules; but before doing so I feel moved to make a remark.

I am disposed to think that the American people are chronically and habitually too much in a hurry. There is so much of activity and thrift in our countrymen that holidays and pageants and relaxations and rests are the rare exceptions of the general rule. All other peoples as far as I know, particularly those enjoying the older and more advanced civilizations, have something more than we of what a quaint British poet has called recess, interval. Therefore, I do not deplore the multiplication of holidays; and when I have seen indignation manifested sometimes at the suggestion that an additional day be made a holiday I have reflected in the train of my present suggestion.

The inauguration of a President has come to be one of the few accepted occasions, one of the very few accepted national occasions, when an occurrence takes place furnishing an inducement, an excuse, a provocation for men to break out of the unending round of local and individual endeavor and go away for a change of scene, an episode, or a jaunt.

In the little city in which I live is a military organization. It is known as the Utica Citizens' Corps. It is composed of men of patriotism, of character, of standing; men as well able to govern themselves, to regulate and conduct their conduct,—I mean to say it with great deference,—as the most distinguished or the most experienced Senator I see before me. That organization means to come five hundred miles to participate in this pageant. I hope it will. I should like to have the Senators here who are skilled in military affairs see them march; see how they disport themselves in the manual of the soldier, willing the whole country should look upon their uniforms and upon the *personnel* of the company.

I am aware that the resolution offered by the Senator from Massachusetts does not seek to disparage or affront any such inclination as I have referred to. I have no thought that the Senator in drawing the resolution or offering it meant any such thing. At the same time, it is a challenge, a reflection. It raises a doubt applicable to just this time now when all preparations have been made as to the coming inauguration, and raises a doubt applicable to all alike, whether there is not some impropriety, some disregard of what it would have been thoughtful and proper to remember, some want of consideration of some thing in the fact that these various military organizations have arranged to meet here on that day and to vie, if they please, with each other in marching and in the manifestation of that military polish and attainment which makes up the emulation between military organizations. I do not wish to see such a charge or such a criticism or such an expression of a possible doubt on the part of the Senate. A long time ago, before these arrangements had been made, circumstances would have been somewhat different; but now, within two or three weeks of the event, after I have personal knowledge in a good many instances that all the arrangements have been concluded, I think it would be a little harsh. Particularly at a time when there is no manifestation anywhere of a sentiment of discord or a disposition to make trouble which need put anybody on his guard, I think it would be inopportune, if I may say it without any possible intention of offense—I think it would be maladroit just now to have this inquiry. Four years will intervene before such another occasion occurs, and during that time I think there will be leisure to ascertain seasonably, so as to give notice to everybody in advance, whether there is any objection in this Republic governed by majorities and operating by general, I wish I could say universal, suffrage to the citizens of the Republic, although they appear in uniform, coming here in one great convention, if they please, to see the Government the robes and scepter pass from the hands of one man into the hands of another. I ask that this resolution lie over under the rule.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The resolution will lie over.

Mr. HOAR. Before the resolution passes over I should like to be privileged to add a word. I selected this occasion not with the expectation that the introduction of this suggestion would affect seriously the preparations for the coming inauguration, but it was because I was myself known to be so cordially in accord with its spirit, because I so thoroughly rejoice in the occasion which is about to take place, and because I was a political friend of the President who is about to be inaugurated, that I thought it was proper for me to make a suggestion which might be supposed to come with ill grace from gentlemen entertaining different political opinions, or who might be suspected of having different sympathies. The time seemed to me to be appropriate because of the very fact that by no possibility could there be a suggestion or a suspicion in any mind that the presence of these soldiers would be an impropriety here or accompanied with any public danger or inconvenience here on the present occasion. That seemed to be the very time when the suggestion that under different conditions of public sentiment at some other period in our history the establishment of such a practice in a time of peace and harmony and quiet in an era of good feeling might ripen into a possible public danger.

It is utterly unimportant whether this resolution lies over or whether it goes to the Committee on the Judiciary this morning. I had no expectation it would be heard of again if it went there; but it seemed to me entirely proper to make this suggestion at the time this thing was going on, so that in advance of the preparations for any future presidential inauguration the fact that this question had been now raised, though it were passed over without decision, would bring the important question to the consideration of the persons in charge.

Mr. HEREFORD. Before this resolution passes from the body, I cannot let the opportunity pass without challenging the correctness of the sentiments embodied in the resolution. I believe that this is a free country, and I believe that the various military organizations of the States under State authority for peaceful purposes have a right to go where they please. The military organizations of the various States have a right to go into any part of their State where they please for peaceful purposes; they have a right to go from State to State for like purposes without let or hinderance; but this resolution introduced this morning by the Senator from Massachusetts suggests the idea that it is highly improper for such organizations to come to the seat of Government and participate in the inauguration of the President of the United States; and that is coupled with the other

idea that it is highly proper that the regular Army may be here on such an occasion.

If the sentiments contained in this resolution had been reversed perhaps it would have met more cordially with my approbation than as it stands; that is to say if the resolution declared that on such a day as that of the inauguration of a President the regular Army should be forbidden to be here, I should certainly have subscribed to the correctness of it; but to insert in a resolution here that it is highly proper that troops under national authority, under the control of the General Government, should be here on such a great holiday and that the various military companies of the States have not that right, is an invasion of the liberty of the whole people, and is the announcement of a doctrine that endangers the liberty of this people. I have always been taught to believe that the liberties of the people are best preserved by the various State organizations and not by the regular Army.

I would commend to the Senator from Massachusetts a letter perhaps which he read a few months ago, a letter from General Winfield Scott Hancock when he said that he liked the simplicity of the inauguration of Thomas Jefferson and would commend that to the people of the United States. I commend that letter to him to-day. It meets with my hearty approval. The idea is that when the President of the United States is to be inaugurated he shall be unattended by the Army of the United States, but that the occasion shall be accompanied with all the simplicity that surrounded the inauguration of the administration of that great man.

I could not allow this resolution to pass from the Senate Chamber without challenging the correctness of the doctrines therein laid down, especially that the regular Army shall be here on such an occasion and the militia of the States forbidden to come here. Congress has no such power, and I regret to see the Senator from Massachusetts in this resolution invoke such a power as that, and I hope the resolution will not meet with the favorable consideration of the Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. This debate goes on by general consent, the resolution having been objected to.

Mr. CONKLING and others. Regular order!

The PRESIDING OFFICER. The resolution lies over.

Mr. INGALLS. I rise to morning business.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The Senator from Kansas.

Mr. INGALLS. I ask for the consideration of the resolution offered by me yesterday relative to the hour of meeting of the Senate after Monday next.

The PRESIDING OFFICER. The Senator from Kansas calls up a resolution offered by him.

Mr. INGALLS. I should like to have the order read.

The PRESIDING OFFICER. It will be read.

The Chief Clerk read as follows:

Ordered, That on and after Monday next the daily hour of meeting shall be eleven o'clock a. m.

Mr. RANDOLPH. The Vice-President had recognized me as entitled to the floor, and I gave way for morning business. Do I lose my right to the floor thereby?

The PRESIDING OFFICER. The Senator from New Jersey has the floor.

Mr. RANDOLPH. I will give way for a moment to the Senator from Vermont.

Mr. EDMUNDS. I am very much obliged to the Senator from New Jersey. It is my best means of getting heard. I merely wish to say inasmuch as the resolution of the Senator from Massachusetts [Mr. HOAR] has gone over and the regular order was called up after some debate, that I wish to be counted at this present moment as in favor of considering the topic referred to by the Senator from Massachusetts, and to add that I believe what the Senator observed is in the main right, and to add also in response to my friend from West Virginia that the particular letter of the late democratic candidate for President of the United States, to which he refers, and that part of it which he has quoted, meets with my cordial approval, whatever I may think about other letters on other topics. That is all.

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; in which it requested the concurrence of the Senate:

A bill (H. R. No. 1102) granting a pension to John S. Corlett;

A bill (H. R. No. 6535) to allow marshals and deputy marshals to take bonds in certain cases;

A bill (H. R. No. 4610) granting a pension to Mary Leggett;

A bill (H. R. No. 3520) to establish a port of delivery at Indianapolis, in the State of Indiana; and

A bill (H. R. No. 5677) granting a pension to Stephen P. Benton.

The message also announced that the House had passed the following bills:

A bill (S. No. 201) for the relief of Somerville Nicholson;

A bill (S. No. 1193) granting a pension to Milton L. Sparr; and

A bill (S. No. 1191) for the relief of James Monroe Heiskell, of Baltimore City, Maryland.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bill and joint resolutions; and they were thereupon signed by the Vice-President:

A bill (H. R. No. 6599) to change the time for holding circuit and district courts of the United States for the western district of Virginia, held at Danville, Virginia;

A joint resolution (H. R. No. 83) granting condemned cannon to the Morton Monumental Association;

A joint resolution (H. R. No. 362) to authorize the printing of 50,000 copies of special report of the Commissioner of Agriculture relative to diseases of swine and infectious and contagious diseases incident to other domestic animals; and

A joint resolution (H. R. No. 372) authorizing the Public Printer to print reports of the United States Fish Commissioner upon new discoveries in regard to fish-culture.

REVOLUTIONARY BATTLE-FIELDS.

Several SENATORS. Regular order.

Mr. RANDOLPH. I ask that the bill (S. No. 2126) relative to Revolutionary battle-fields be taken up.

Mr. COCKRELL. I ask for the regular order.

Mr. INGALLS. I ask for action on the resolution I offered yesterday that has been called up, and that I have a right to call up under the rules of the Senate.

The PRESIDING OFFICER. The morning hour has expired.

Mr. INGALLS. The morning hour, I think, has not expired, with all due respect to the Chair, and if action on the resolution is to be deferred by procrastination merely, by the occupation of the time until the morning hour does expire, of course I must yield.

The PRESIDING OFFICER. The Chair is not responsible for the clock.

Mr. RANDOLPH. Mr. President, I press my motion.

The PRESIDING OFFICER. The Senator from New Jersey asks unanimous consent to proceed to the consideration of the bill he has named.

Mr. INGALLS. I object.

The PRESIDING OFFICER. Objection is made.

Mr. RANDOLPH. I move to lay aside all pending orders and take it up.

The PRESIDING OFFICER. The Senator from New Jersey moves to postpone the regular order with a view of proceeding with the consideration of the bill proposed by him.

Mr. INGALLS. That motion is not in order, Mr. President.

Mr. RANDOLPH. Why not?

Mr. INGALLS. The only motion in order is to postpone the pending question, not to consider another bill.

Mr. RANDOLPH. I make that motion.

Mr. CONKLING. What is the pending order to be postponed?

The PRESIDING OFFICER. The pending order is the Calendar.

Mr. CONKLING. Is not the Post-Office appropriation bill the unfinished business?

The PRESIDING OFFICER. Not until half past one o'clock.

Mr. RANDOLPH. This is a bill that is general in its character, that will elicit no debate, I presume. It comes from the Military Committee, and it has been delayed many weeks. I think it will meet with universal acceptance and approval. I ask, therefore, that it be taken up.

Mr. INGALLS. What is the bill?

Mr. RANDOLPH. It is the bill relative to Revolutionary battle-fields.

Mr. FERRY. Why does not the Senator move to postpone the present and all prior orders and take it up.

Mr. RANDOLPH. I have done that.

The PRESIDING OFFICER. The Senator from New Jersey moves to postpone the pending order.

The motion to postpone was agreed to, ayes 40, noes not counted.

The PRESIDING OFFICER. The Senator from New Jersey now moves to proceed to the consideration of the bill (S. No. 2126) relative to Revolutionary battle-fields, and so forth, which will be read for information.

The Chief Clerk read the bill.

Mr. CONKLING. Without discussing the merits of the bill, as the rule says I shall not, there is a question which I believe I have a right to ask. I listened to the reading of the bill and only this instant received a copy. I wish to inquire whether the design and effect of the bill will be to arrest the passage of special bills, if I may call them special, which have already received the action of the House, which have received the action of the committees of the Senate and been favorably reported and are now on the Calendar—bills which in particular instances contain provisions of their own adapted to what has been done in those instances? Under this general bill, as I catch it from the reading, those engaged in such matters may be compelled to begin again, to go over to some extent, and thus to delay works which are in progress. If such be the effect of the bill I should be glad to know it before it is taken up.

Mr. RANDOLPH. Mr. President, the effect of this bill will be to place all applicants for Government aid in the erection of memorial monuments upon a common footing. That, of course, the Senator from New York can gather from the text of the bill. That it is

intended to arrest, to use the Senator's own word, the passage of any other bill is not so; nor will that necessarily be the effect of it. The bill to which the Senator specially refers, I imagine, is the bill concerning the Saratoga monument.

Mr. CONKLING. That is one.

Mr. RANDOLPH. That bill, I may be permitted to say, has passed the House, is before the Senate, and has passed a committee of the Senate. I ought to say in parenthesis, not the committee to which these bills are ordinarily referred, but it has been passed upon favorably by a committee of the Senate, and is now before the Senate. The passage of this general bill does not by any means imply that the Saratoga bill may not be taken up and passed by itself. There is nothing in the terms of the general bill that need delay action upon the part of the Senate in regard to the Saratoga bill.

The Committee on Military Affairs have had a great many bills asking aid in behalf of the construction of Revolutionary monuments before it. After much consideration during the past session and also at the present session, it was concluded by a majority of the committee, only one or two members objecting, that the more equitable and economical way was to provide a general bill, a bill under which any association having in view the commemoration of a Revolutionary battle-field would be authorized, under well-guarded provisions, to apply directly for a sum of money from the Treasury equal to the amount which such patriotic association had itself raised and paid in.

It will be observed that under the terms of the pending bill the Saratoga Association will be as liberally provided for as under the special bill for which they have obtained the favorable action of the Committee on the Library of this body. My own opinion is that in justice to these many patriotic associations with reference to economy by the Government, a bill of this general character placing all applicants for Government aid in erecting Revolutionary battle-field monuments upon an equal footing should be passed now and become a law, thus fixing as far as possible the policy of the Government regarding this class of appropriations.

There are one or two provisions of this bill that I may as well refer to, now that I have the floor, limited as my time is under the rule of the morning hour, one of them looking to the benefit of the Washington Association of New Jersey, located at Morristown, New Jersey. That corporation owns the old Washington headquarters. That building was occupied for a longer time during the revolutionary war by Washington and his staff than any other building in America. During the long and anxious winters of 1779–'80 they spent their days and weeks and months under the broad shelter of that roof, and not only Washington and his staff, but Lafayette, Schuyler, Greene, Hamilton, Kosciusko, De Kalb, Wayne, Light-Horse Harry Lee, Putnam, Steuben, Knox, and even Benedict Arnold lived there for longer or shorter periods. More men known to revolutionary history lived under that roof during the revolutionary war than under any other roof in America.

There during the anxious months of those eventful winters was gathered from time to time almost every prominent member of the Continental Congress. The rooms they counseled in, the furniture they used have been kept in almost perfect preservation by the patriotism of Jerseymen.

It is a grand old house, freighted with grand associations, and worthy of the highest consideration by Congress. I regret that my time——

The PRESIDING OFFICER. The Chair will remind the Senator from New Jersey that it is not in order to discuss the merits of a bill on a motion to take it up.

Mr. RANDOLPH. I am aware of the indulgence of the Senate, and ask pardon for infringing the rule. I thought the present opportunity was the best one for stating why the fifth section, relating to the Washington Association of New Jersey, had been placed in the bill. I am anxious for the prompt and favorable action of the Senate, and will only repeat that, in the judgment of a majority of the Military Committee, this is the most equitable, just, and, to Government, economical measure that will probably be placed before Congress relating to the subject under discussion.

Mr. CONKLING. Mr. President, did the rules permit the merits of this bill to be discussed on this motion, I should have no word to say against its object. I asked the Senator from New Jersey whether its effect would be to arrest other bills pending in the Senate, and he answers that there is nothing in this bill which would deprive the Senate of the power to take up and act upon other bills. That of course must be true of the bill, whatever its provisions may be. The point of my question was somewhat different, and without touching upon the rules I may say that I find now in this bill provisions which in the instance referred to would require a different proceeding from that already taken. Plans having been adopted, the work having been entered upon, it would be necessary afresh to submit and get approval of the plans and *projet* of the intended monument. It was to that point that I asked the attention of the Senator from New Jersey.

At Saratoga a memorable and a decisive battle was fought and well fought, and the people of New York have contributed already a sum of money, and they ask the Government to join them in erecting a monument to perpetuate the memory of that struggle. I cannot under the rule give my reasons now; but I think after we pass this bill it could be fairly argued that a bill in that instance special should not be adopted because of the general provisions contained in this. If that should be persuasively the effect upon the Senate, I should regret the adoption of this bill.

I observe that this bill relates to battle-fields. I wonder if there be a member of the Senate who is able to mark the boundaries of battle-fields or locate them. Until I shall hear some Senator volunteer to act as geographer in that respect, I shall believe that no Senator, with or without this bill, will be able to locate and define on the map of this hemisphere its battle-fields; and I am fortified in this by the circumstance to which the honorable Senator has referred that a separate section of the bill is devoted to denoting one place, I think I may say of that conspicuously not a battle-field, which it is intended to have the bill cover. It refers to the headquarters of an army—historic headquarters. The honorable Senator from New Jersey has peopled those headquarters with denizens no more numerous and illustrious than they were, but still it was the headquarters of an army; it was not a field on which men grappled for the mastery in war, and yet it appears by special nomination in this bill because it was seen that "battle-field" would not cover an instance so conspicuously meritorious as that.

When this bill comes up for consideration, if it does, I shall venture to suggest that something is needed to designate one place from another, as many places are not designated by the simple term "battle-field." Indeed I do not know how that word would affect even instances that I have in mind which might be supposed especially to fall within it. Interested as I am in the instance of the monument at Saratoga, and interested as I am in the erection of a monument to Nicholas Herkimer, a name in which for special reasons I feel a special pride, an instance in which $500 was appropriated by the Continental Congress, which $500 and no part of it has ever yet been received, I shall hope that those bills at least may have a fair hearing, having been matured without a knowledge of any measure of this sort, before they are in any respect concluded by the adoption of any generality of provision.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Jersey to proceed to the consideration of the bill named by him.

Mr. KIRKWOOD. Before the vote is taken I shall be glad to say a word, not on the merits of this bill, but for the purpose of indicating a bill which I think ought to have preference. I am sorry that the Senator from Virginia [Mr. JOHNSTON] is not present. I gave notice yesterday that I should press on the attention of the Senate a bill that I deem of very great importance, the bill to prevent the spread of contagious diseases among cattle; and if the motion to take up this bill should fail, I will move that that bill be taken up, so that it may have its place during the morning hour and be under consideration.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Jersey.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 2126) relative to Revolutionary battle-fields, &c.

Mr. COCKRELL. Mr. President, I am of the minority of the Committee on Military Affairs opposing the passage of this bill. Is this bill necessary and proper? If it be it is a direct reflection upon the intelligence and patriotism of the illustrious men who have filled the Halls of Congress from 1800 to this time. There have been periods in our history when this country did not owe one solitary dollar of indebtedness, when we had $28,000,000 of surplus money, and when illustrious statesmen and patriots filled the Halls of Congress, and it never occurred to them to spend that money in the erection of monuments upon the battle-fields of the Revolution. I do not think it is necessary, and I would regret supporting the bill and thereby casting an imputation upon the intelligence and patriotism of the great men who have preceded us.

But I think it ought not to pass for another reason, and that is that it would be a reflection upon the living. It is a direct reflection upon the American people to-day. This bill says to them, "You are so unfeeling, you are so unpatriotic, you are so void of intelligence that you will not cherish the memory of the battle-fields of the Revolution, the struggles of our Revolutionary soldiers, unless Congress taxes you to build senseless, feelingless monuments of marble or statues of bronze, to remind you of those thrilling scenes and events." I should dislike by my vote to cast an imputation, a reflection upon the living, and I am therefore, upon either one of these grounds, opposed to the passage of this bill.

But, Mr. President, what is the necessity for this bill? Look back at our history; see year by year passing by until 1880 and 1881, when this Congress is to distinguish itself as the pre-eminently patriotic and loyal Congress expending all its efforts in spending the people's money in the erection of monuments and in celebrations and festivals and carnivals at that time.

Mr. President, as I have said once before, I confess that I have not that profound admiration and respect for patriotism and loyalty that always hoists the old flag on every occasion provided there is a good round appropriation underneath its folds. I am opposed to this because it is a wanton, needless, and improper expenditure of thousands and hundreds of thousands of dollars of the people's money, while we to-day are withholding from honest creditors of this Government hundreds and thousands and hundreds of thousands of dollars justly owing to

them, and for which they are suffering. We are giving these hundreds of thousands of dollars to build monuments, when Jackson and Clay and Webster and Calhoun and Benton, and men of that class, with twenty-eight millions of surplus money in the Treasury and the Government not owing a dollar to any creditor, national or individual, refused to appropriate a dollar.

I simply desired to state my reasons for opposing this bill. I opposed it in committee; I oppose it here. I opposed the bills to which the Senator from New York refers, each and all of them.

Mr. BURNSIDE. Mr. President, I will say in answer to some remarks dropped by the Senator from New York that it has been the intention of the Senator from New Jersey and myself for several days to try to get this bill up and I knew nothing of the introduction of the bill to which he referred until this morning, so that my action on this bill has no connection whatever with any action taken on the Saratoga monument bill.

I will say in answer to the Senator from Missouri that we are doing a great many things at this centennial period that Clay and Webster and Calhoun and Benton never thought of doing and that there was no occasion for doing while they were in public service. At this particular period of our history, the centennial period, we should be moved to take a great many patriotic steps. Sir, I feel it my duty to do something to make Americans feel that they have a Government, and therefore I do not feel that I am showing any disrespect whatever to Clay, Calhoun, Webster, and Benton by offering at this centennial period my humble service in the direction in which this bill points.

Now, in regard to the disrespect to the living by indicating by this bill that there is a lack of patriotism in this country at this time, I will say that I am willing to take my share of the responsibility of making that indication. I think if we can by any means stimulate and increase the patriotism of our people it is our duty to do so. I think it is at a low ebb; I believe we are thinking too much of the affairs of every-day life, too much of ourselves, and if we can think a little more of the public good, it will be better for the country and for all of us. I speak for myself; the temptation is to think only of what immediately surrounds us, what is best for our personal interests, what most conserves our comfort, and I think if I can be inspired with more patriotism than I have had, it will be a very fortunate thing for me and a fortunate thing for the work I am trying to do as a public servant. I think if we say to any community that will raise $10,000 "We will give you $10,000 to enable you to erect a Revolutionary monument," we shall have done a very wise thing. There are probably not over half a dozen places in the United States where monuments will be erected.

I differ *in toto* with the Senator from Missouri on all the points he makes. It is no disrespect to men of the past for us to do things they were not called upon to do. On the semi-centennial anniversary of the birth of our nation men and communities were moved to great rejoicing and at this centennial period it becomes doubly our duty to interest ourselves in all the pageants, displays, and patriotic enactments and work which tend to inspire patriotism. I do not think the patriotism of the country is of such high type as to make it entirely unnecessary for us to stimulate it by all legitimate methods.

Mr. JONES, of Florida. Mr. President, without expressing any opinion just now in regard to the wisdom of this measure, I have a suggestion to make to the Senator from New Jersey who has it in charge with regard to that part of it which relates to the payment of money by this Government to the associations mentioned in the bill. Under the first section of this bill it is provided that for every dollar raised by any association the Treasury of the United States shall pay an additional dollar to aid the object——

The PRESIDING OFFICER. The hour of half past one having arrived it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. BURNSIDE. I ask unanimous consent to continue the consideration of this bill.

Mr. INGALLS and others. Regular order.

The PRESIDING OFFICER. The regular order is called for.

Mr. GARLAND. Mr. President——

Mr. CONKLING. If the Senator will pardon me a moment, let me suggest that the Senator from Florida is in the midst of a few remarks which he would like to conclude. I take it no Senator will object to that.

Mr. GARLAND. I have no objection.

The PRESIDING OFFICER. The Senator from Florida will proceed, there being no objection.

Mr. JONES, of Florida. The word "raised" here is not entirely satisfactory to me. The provision is that for every dollar raised by any of these associations the Treasury shall pay over a dollar to them. I think some more stringent provision ought to be in the bill. We know that subscriptions on paper are very frequently taken in enterprises of this kind as equivalent to actual payment. I think it ought to be provided, if it goes into operation, that for each dollar of money actually in hand the Treasury shall pay one dollar. I only make that as a suggestion.

THE GENEVA AWARD.

Mr. GARLAND. A few days ago I gave notice that this morning I should call up the bill known as the Geneva award bill in case there was no appropriation bill to obstruct the way. The morning hour has expired now, and the order of the day is the Post-Office appropriation bill. I wish now to renew this notice for to-morrow, when the appropriation bill will be out of the way, and I hope the Senate will give me consent to-morrow morning to call up this important matter.

PENSIONS TO SOLDIERS OF THE MEXICAN WAR.

Mr. WILLIAMS. I desire to give notice to the Senate that on Monday, after the conclusion of the morning hour, I shall move to suspend all prior and pending orders and take up the bill (S. No. 1753) granting pensions to certain soldiers and sailors of the Mexican and other wars therein named, and for other purposes.

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, on the 8th instant, approved and signed the following acts and joint resolutions:

An act (S. No. 939) to amend the law relative to the seizure and forfeiture of vessels for breach of the revenue laws;

An act (S. No. 286) for the relief of John S. Cunningham;

An act (S. No. 1133) granting a pension to Michael Hayne;

An act (S. No. 1573) to provide for the furnishing of certain public documents to soldiers' homes;

An act (S. No. 1805) relative to the revolutionary battle-field of Bennington;

A joint resolution (S. R. No. 146) to provide for printing and distributing the index of the CONGRESSIONAL RECORD semi-monthly; and

A joint resolution (S. R. No. 143) authorizing the inspection and issue of an American register to the Egyptian steamship Dessoug.

THE PONCA INDIANS.

Mr. DAWES. Mr. President, I ask the attention of the Senate for a few moments to a matter which, in some aspects, is somewhat personal to myself.

The PRESIDING OFFICER. The Chair hears no objection, and the Senator will proceed.

Mr. DAWES. There was yesterday laid upon the desk of each of the Senators a printed letter of fourteen pages, directed to me personally in the Senate, dated at the Interior Department, and signed by the Secretary of the Interior. It is a criticism upon some remarks which I made here in the Senate recently, and also upon my course as a Senator. I have reread those remarks since this letter has been laid upon the desks of Senators, and I find nothing in them which I desire to qualify or withdraw; on the contrary I reaffirm everything I said on that occasion.

What I have said and what I have done has been in the discharge of a public duty from which I do not intend to be deterred by any such proceeding as this. To this body and to those who sent me here I am accountable for the manner in which I discharge my duty here; but I am not accountable to any executive officer of this Government. So far as in this letter the facts stated in those remarks are called in question, I have only to say further that they are capable of proof by the record. The records of the Interior Department and of the Senate prove them incontrovertibly. So far as those statements rest upon personal memory, this letter has only succeeded in putting the memory of one man against that of another, and no amount of allegation can carry it further or demand from me further reply. I submit a reaffirmation of them all to the judgment of the Senate and the country.

The Secretary of the Interior is restive over the public criticism of his connection with the Ponca business, and those acquainted with the facts do not wonder. I ask the indulgence of the Senate but a few moments to go once for all to the bottom of the Ponca business; the steps are few but certain; and when I shall have reached the bottom of it, the public judgment will have no difficulty in assigning to the author of this letter his proper position in that court where men on trial get their deserts; and whatever that position may be, I am certain it will not be that of public prosecutor.

One thing is admitted by everybody, and that is that a great wrong was inflicted upon the Ponca Indians by their removal to the Indian Territory. The President of the United States admits it, and that it is so grievous as to justify a special message to Congress urging redress of this great grievance during his administration. The Secretary of the Interior admits it, and in this letter boasts that he is the first discoverer of it, a boast that those who are acquainted with the facts will not be inclined to withhold from him. A commission sent by the President to the Indian Territory to inquire what justice and humanity demanded, came back with their report setting forth that great wrong. What is that wrong, and who is responsible for it, are the questions to which I ask the attention of the Senate. The key to it is found in these three lines of a statute of the United States attached to an appropriation bill:

Provided, further, That the Secretary of the Interior may use of the foregoing amounts the sum of $25,000 for the removal of the Poncas to the Indian Territory, and providing a home therein, *with the consent of said band.*

Subsequently $15,000 was added to this appropriation without changing its phraseology. If there has been any wrong committed by the removal, these words show what that wrong is; it could be in no

other way than because they were removed without their consent. If their change of abode, if the removal of these Indians to the Indian Territory and their retention there was with their consent, no one claims that there was any wrong committed. It is because they were removed without their consent that a wrong was inflicted upon them; and I pass to the second and only question to which I desire to call the attention of the Senate, and that is, who is responsible for that wrong?

Under this act of Congress, on the 15th day of the last January of the last administration, six weeks before it went out of power, an agent was sent with written instructions to the Ponca Indians to negotiate for that consent. He made a sorry job enough out of his negotiation. It lasted until the 4th of March, when this agent passed under the control and into the service of the present Secretary of the Interior, the author of this letter. He had accomplished on that day only enough to demonstrate that their consent could not be obtained, and that information was laid before the Department.

The Secretary pleads ignorance of the subsequent outrage which constitutes this wrong. I propose to show by the records in his own Department and the records of the Senate that he not only was conversant with every step in it but that with full knowledge of it all laid before him he ordered it to be done.

On the 5th day of March, 1877, when the present Secretary of the Interior took up the work and took control of the agent, every Ponca Indian was in his home in the Territory of Dakota and on his reservation, for which he had an indefeasible title, then and there protesting his desire to remain in his home. Every step thereafter almost daily was communicated to the Interior Department, mostly, it is true, to the Commissioner of Indian Affairs, until the process of forcing the Poncas out of their territory had come to create such a disturbance in this peaceful tribe as to attract the attention of all the peaceful inhabitants of Dakota and of Nebraska in the midst of whom this tribe had had their home for one hundred years, and thereupon they made these representations to the Secretary of the Interior and not to the Indian Bureau.

Alfred L. Riggs, a missionary among them, and now laboring in his work within a few miles of their old abode, whose letter I have before me, wrote on the 20th of March, 1877, to the agent there, setting forth that the Poncas were wholly opposed to going, that the act of Congress under which they were to be removed made the condition that the removal should be with their consent, and stating the wrong about to be inflicted upon them; and the agent on the 22d of March inclosed that letter to the Secretary of the Interior.

On the 10th of April, 1877, Mr. H. Westerman, treasurer of Knox County, in Nebraska, bordering upon this reservation, writes to the Secretary of the Interior:

SPRINGFIELD, DAK., *April* 10.

Hon. CARL SCHURZ,
Secretary of Interior, Washington, D. C.:

The Ponca Indians do not wish to be removed. They have not made a treaty for their lands, but are to be forced off.

The treaty of 1865 cedes and relinquishes to them the lands they now occupy (see U. S. Statutes at Large, volume 14, page 675, article 1,) and gives them right and title thereto.

Please order a suspension of their removal until you receive papers already forwarded setting forth their rights in full. Answer.

H. WESTERMAN.

On the 3d day of April, he had written more fully to the same Secretary of the Interior, thus:

NIOBRARA, NEBR., *April* 3, 1877.

DEAR SIR: Allow me to call your attention to the Ponca Indians in their poor and helpless condition—about seven hundred and fifty human beings, who have a right to be heard by the Government. The Indians have lived more than a hundred and fifty years where the present reservation is, and for the past eighteen years, I know from personal observation, have been friendly to the whites and the Government. They are more advanced in civilization during this time than any other tribe of Indians I know of, although the Government has done less for the Poncas than for any other Indians.

Lately an agent came from Washington to make a treaty with the Poncas for their removal to the Indian Territory. The Indians do not want to go there. Now, why not leave them where they are? The Ponca Indians have been more protection to the settlers on the frontier of Nebraska than if a regiment of soldiers had been stationed there.

Reform is necessary, particularly in the Indian Department. I have seen agents and committees sent from Washington, who never heard any complaint, but were received by some of the "ring," who took good care that nobody could see them. They returned to Washington and reported nothing. It seems to me the removal of the Poncas is a put-up job by some who want to make money, and some parties in Yankton, Dakota, to secure a market by locating the Sioux where the Poncas are now, and prevent the development of Northern Nebraska. If we are to have Indians on our border, let them be friendly and not hostile. I hope you will issue an order to leave the Poncas on their present reservation, and appoint a committee of men who live on the frontier of Nebraska to examine and investigate this matter; among them I would suggest Joseph Holman, whose name is attached to the treaty made twenty years ago.

Very respectfully, yours,

H. WESTERMAN.

Hon. CARL SCHURZ,
Secretary of the Interior,
Washington, District of Columbia.

And he asks the Secretary to inquire for his respectability and reliability of "Hon. A. S. PADDOCK, United States Senator; Hon. ALVIN SAUNDERS, United States Senator; Hon. Frank Welch, M. C.; Hon. P. W. Hitchcock; Hon. John Taffe; Hon. A. W. Hubbard, president First National Bank, Sioux City, Iowa." And then on the 10th he sent further the letter to the Secretary that I just now read. The same Mr. Riggs to whom I before referred, on the 19th day of March, 1877, wrote to the Secretary of the Interior setting out all these facts in a letter which I will read, so that the Secretary may have no difficulty in finding it:

To the Hon. SECRETARY OF THE INTERIOR, *Washington, D. C.:*

We respectfully call your attention to some facts and circumstances connected with the proposed removal of the Ponca Indians to the Indian Territory which demand your immediate attention.

1. The Poncas have a clear right to the land on which they now are; the right of original possession, guaranteed by two treaties with the United States.

2. They have never relinquished that right, any reported agreement to the contrary notwithstanding.

3. They are wholly opposed to moving to the Indian Territory. Out of deference to the wishes of the Government they were willing to go and look at it, but their visit has confirmed their determination never to move. If they must die, they will die by the graves of their fathers.

4. The act of Congress of 1876, by which their removal was authorized, and $25,000 appropriated for that purpose, expressly provides that it is to be done "*with their consent.*" The appropriation bill of the last session added $15,000 to the former sum, but did not change the condition then imposed.

5. The ostensible reason for the removal of the Poncas—the hostility of the Brule Sioux—is without good foundation; for though they are now enemies, closer neighborhood and the control of the United States authority would quickly make them at peace. The Yankton and Santee Sioux were once at war with the Poncas, when they were living at a distance; but when they came into close proximity neither party could afford war with their next-door neighbor, and they made peace.

6. The white settlements near the Poncas would rather have them than the Brule Sioux for neighbors.

7. The arrangements for their removal are being made with such haste and in such a way, without the advertisement usually required, that the popular impression is that there is something "crooked" in the transaction.

We are therefore convinced that great wrong will be done these Indians and more disgrace accrue to our country by such ruthless disregard of our obligations. And we believe that none would more deeply regret the inevitable result than the honorable officers of the bureau under whose authority the work is being done.

We ask that at least a stay be put upon this movement by telegraph until it can be properly looked into by the Government.

Your obedient servant,

ALFRED L. RIGGS,
Missionary of the American Board, Santee Agency, Nebraska.

MARCH 19, 1877.

At the bottom of this letter is this indorsement:

I hereby certify that (though not knowing to all the facts above stated) I do know that the Poncas as a tribe are bitterly opposed to removal. Believing it would be an outrage to drag them even to a better country, I join in the petition for further investigation. There must be some misunderstanding.

JOHN P. WILLIAMSON,
Missionary of the Presbyterian Church, Yankton Agency, Dakota.

MARCH 19, 1877.

To this was added:

We are glad to indorse the above, with the hope that the Department may be induced to order a delay until proper inquiry can be made.

JOSEPH WARD,
Pastor Congregational Church, Yankton, Dakota.
JOEL A. POTTER,
Ex-Mayor of Yankton.
J. C. McVAY,
President First National Bank, Yankton.

YANKTON, DAKOTA, *March* 21, 1877.

On the 21st day of March these same two missionaries telegraphed to the Secretary of the Interior:

[Telegram.]

YANKTON, DAKOTA, *March* 21, 1877.

The Hon. SECRETARY OF THE INTERIOR, *Washington, D. C.:*

Please order stay of proceedings in removal of Poncas until inquiry is made. Removal is against their wishes, and violates two treaties. Particulars mailed.

A. L. RIGGS,
Missionary, Santee Agency.
JOHN P. WILLIAMSON,
Missionary, Yankton Agency.

E. C. Kemble, the United States Indian inspector, on the 22d of March laid the following letter before the Department, addressed to him by Mr. Riggs:

DAKOTA MISSION, AMERICAN BOARD,
Santee Agency, Nebraska, March 20, 1877.

DEAR SIR: Yours of March 16 reached me last night. I thank you much for your full free letter. I am glad to hear from you, and glad to have the opportunity to give you a full explanation of my position on the Ponca question, past and present. I had nothing to do whatever with encouraging the Poncas to hold out against the Government. I have had no opinion on the case until recently, and what I have to say I say to the United States authorities, and not to the Indians. Some of the Ponca chiefs came down to see me the week you were counciling with them; but I was away at Yankton, buying lumber for my new young men's hall, and I was glad of it. They, however, sent a delegation to see me, after they had started with you, to request me to write to Washington for them, which I did and received their answer; but they have never called for the answer.

I think you are mistaken about Indians from our mission going up to stir up trouble. There is only one who could do it, and I am sure he has not been up there for a long time; I think not since your big council. I asked only last Saturday about it.

I presume the Poncas are themselves more hostile to the removal than you think. Yesterday I wrote a letter to Washington on the Ponca matter. I sent it to Rev. J. P. Williamson, asking him to sign it with me. I will tell you all there is in it. But I will first tell why I sent it at all. I had to come to the conviction that the Department is laboring under a misconception of the case, and consequently are compelling you to do things that will work wrong to the Indians, and disgrace the country. I expressly say in my letter that I believe the honorable officers of the bureau, under whom this work is being done, will regret as much as any one the inevitable result. I have written substantially as follows: "First. The Poncas have a right to the land they now occupy, the right of original possession guaranteed by two treaties." Second. They have never relinquished the right; certainly a documentary title cannot be conveyed without "signing it away," which the Poncas have not done. Nor did they understand your verbal agreement with them as you understood it. "Third. They are wholly opposed to going." "Fourth. The acts of Congress on which they are removed make the condition that it shall be with their

consent." Fifth. The ostensible reason, the hostility of the Brule Sioux, is without good foundation. You yourself urge that they have been watching against these Sioux to the detriment of their farms. Sixth. The neighboring settlements much prefer that the Poncas should be near them rather than the Brule Sioux. By this I did not mean that all were opposed, but rather that they were decidedly opposed. Seventh. The arrangements for their removal are being pushed with such undue haste and in such a way, without the usual advertising for transportation, that the popular impression is that there is something "crooked" in the transaction. It may be said in answer that haste was necessary. True enough; but there was no necessity precluding the advertisement in the Yankton Daily three or four times.

I state above that such is the popular impression, as is undoubtedly the fact. I have not, however, intended to reflect on your integrity by making such a report, and I may not have guarded it in that particular as I should; of course if the popular impression is correct it does reflect on your judgment. But if wholly incorrect you are wholly vindicated, even in that particular; that is practically so.

Now I have told you the whole—the very worst—that I have thought or said. But I fear that I am too late, and that my protest will come to nothing. It may be best for the Poncas to go south, even if half of them die, as the Pawnees have died; but they should be convinced and be brought to acquiesce in a way they have not done as yet.

If I have done you any wrong in what I have written it is because I had been thinking more of the case of the poor Poncas than of anybody else.

I had also written to some gentlemen of Yankton, my friends, to get their assistance in the matter of my protest. I have therefore sent them your letter this morning, so that they can see both sides of the case, and so that I should do you no injustice.

Allow me to say that I regret, for your own sake, that you have got into that Ponca business, and I sincerely trust you may get through with it safely and righteously.

Your friend,

ALFRED L. RIGGS.

Colonel E. C. KEMBLE.

In their distress these Indians sold thirty ponies and employed counsel to come on here to Washington and personally intercede with the Secretary of the Interior for permission to remain in their old home. That lawyer left on the 20th or 21st of April. I now read his testimony before a committee of this body:

A. I think I left there about the 20*th or* 21*st of April*. When I got here I found Senator PADDOCK, of our State. I had expected to find Senator SAUNDERS, who had just lately become Senator. I thought that if I stated the matter to them they would have an investigation made. I brought letters of introduction with me. When I got here Senator SAUNDERS was not here.

Q. Was Congress in session then?

A. No, sir; Congress had adjourned. In the spring of 1877 there was no session of Congress after the 4th of March. Senator PADDOCK went with me, and we called on the Commissioner of Indian Affairs—Commissioner Smith. I represented the matter to him quite fully, and explained to him that I thought there was no question, and that the citizens out there thought there was no question, that advantage was being taken of these Indians; that the agent and officers there were not reporting the facts: that the Indians never had agreed to leave their lands, but, on the contrary, were very much opposed to leaving them. Whatever was the agreement at the council before the chiefs went to the Indian Territory, it was certain that at this time, after the return of the chiefs from the Indian Territory, at the time they called upon me to act for them, they had decided that they did not want to go to the Indian Territory on any consideration. I explained to Commissioner Smith that the chiefs had been to the Indian Territory, and had become greatly dissatisfied, and left the men who had them in charge, and walked back, a distance of something like five hundred miles, to the Omaha reservation, in Nebraska.

Q. You explained to the Commissioner that the Poncas were utterly opposed to going to the Indian Territory at all?

A. Yes, sir; at that time, after the return of the chiefs.

Q. What did the Commissioner answer?

A. I do not think that he made any very decided answer at that time. We then called on Secretary Schurz and explained the matter to him.

Q. Who went to call on Secretary Schurz?

A. I went with Senator PADDOCK. I think Commissioner Smith came in while we were there. I fully explained the matter to Secretary Schurz. Senator PADDOCK vouched for my respectability, and said he had letters indorsing my statements from a number of men with whom he had been acquainted ever since he had been in the State. The Secretary at the first interview promised that he would look into the matter. I think it was at this interview, after this promise, that Commissioner Smith came in; and he made some remark to the effect that the agents were the sworn officers of the Government and that their reports must be the basis of all official action. I tried to induce the Secretary and the Commissioner—I am not sure whether at this interview or the next day—to delay action and select any man or men that they might have confidence in to go out there and investigate whether the Poncas were willing to go to the Indian Territory or not. Commissioner Smith for some reason or other was very desirous of their removal. The Secretary, however, was inclined at first to delay the matter and make an investigation; but he finally made up his mind that his official information was of such a nature that he ought to act.

This gentleman says that the Senator from Nebraska on my right [Mr. PADDOCK] took him to the Interior Department, introduced him, vouched for his reliability, and seconded his request that the Secretary would stay what was called this inhuman proceeding long enough to send a commission of one or more persons in whom he had confidence to the territory, to there investigate and satisfy him. I make this statement in the presence of the Senator from Nebraska, and if I fall into an error I know that the Senator will not hesitate to correct me. I assume, therefore, that in the main I am stating this transaction as it accords with his recollection.

Mr. PADDOCK. Mr. President, it is true, as stated in the testimony given by Mr. Draper, to which my friend has referred, that I did call with him upon the Secretary of the Interior in respect to this matter; it is true that at other times, when letters and petitions were sent to me, I did call to see the Secretary of the Interior upon the same subject, and did protest against the removal of the Poncas; but it is due to the Secretary of the Interior to say in this connection that always he manifested a disposition to do what seemed to be best and proper in the case, but at the same time he uniformly said that under the law which had been enacted before he came into the office of Secretary of the Interior he felt himself obliged to take such action as the law itself seemed to require, looking to the removal of these Indians to the Indian Territory. I felt it myself to be a very great hardship. At the time the law was enacted, I so expressed myself in the Senate very emphatically. It seemed to me to be a very improper thing to do; but there was a complication growing out of the treaty of 1868, which gave the great Sioux tribes that particular reservation, wrongfully, improperly, against all law and all justice, which seemed to make it necessary for the removal of the Poncas, and that was the plea on which the legislation was had. The legislation was wrong beyond any question whatever. That I must say.

Mr. DAWES. The Senator will observe that I am on a question of knowledge, and I simply would like to ask him if he did go with this gentleman and indorse his reliability? The law is plain.

Mr. PADDOCK. I did then and do now indorse his reliability.

Mr. DAWES. Then a reliable attorney-at-law, appointed by the Poncas and paid out of the very means of their livelihood, their own ponies, came here and set forth to this Secretary of the Interior the facts in this case, implored him to stay these proceedings long enough to ascertain for himself by special commission what were the facts in the case. I think I am authorized by the Senator from Nebraska on my left [Mr. SAUNDERS] to state to the Senate that he also appeared before the Secretary of the Interior and represented to him in substance that the Poncas desired to stay in their old home, that the white people round about them desired that they should stay, and that their removal against their consent would be a great hardship upon them.

Mr. SAUNDERS. Mr. President, I did so state to the Senator, I believe, and to others. I visited the Secretary of the Interior shortly after I came into the Senate, and shortly after he was installed into that office, once, I think, if not twice, with my colleague, and at one other time alone, and asked him to stay the proceedings in the case. I told him that the white people were satisfied with these Indians; that they were a peaceable tribe of Indians; that they had made it their boast that they had never shed a white man's blood, and, inasmuch as they were more industrious than most of the other Indians, there was a disposition on the part of the people of my State to let them remain undisturbed and finally become citizens. In fact, some of them were applying at that time for homesteads.

The statement was made to me that they did not want to go, that they wanted to remain where they were, and on that account particularly—for I had no interest in them—I made an appeal to the Department not to send them to the Indian Territory at that time.

It is due to the Secretary of the Interior to state, as has been stated by my colleague, that in answer to that the Secretary said he found when he came into office a law or an appropriation that had been made for that purpose, and he felt himself instructed, therefore, to carry it out, the money having been appropriated for that particular purpose.

I will state also that the Secretary of the Interior had other evidence on that subject; that he had learned that the Indians did want to go; that some parties had so stated to him. I gave him the best information I could, and I insisted that they ought not to be sent down there against their will and that I had heard they were not disposed to go. I thought there was a mistake made at that time. I thought so then and I think so now. At the same time, I wish to do the justice to the Secretary of the Interior of saying that I believe in the main the management he has put forth in regard to the Indians has been looking to their best interest, and particularly he has advised that they be made citizens and allowed to hold lands in severalty, so that they may finally become self-supporting. I approve everything he has done in that direction. I did not approve of the other action at the time and regretted exceedingly that he felt himself bound to take the course he did.

Mr. HOAR. I would like to ask the Senator from Nebraska for my own satisfaction and that of the public, one question. As I understand, the law which provided for the removal of the Ponca Indians contained this condition, "provided they give their consent." I understand that the Secretary of the Interior has repeatedly affirmed that he is now satisfied they did not give their consent, so that their entire removal was in violation of law. Now what it is desired to know is whether it be proved that the attorney of the Indians, vouched for by the Senator's colleague as a respectable and trustworthy person, went with the Senator's colleague to the Secretary before the order to press their removal was given, and informed him that they had not given their consent? That, I understand the Senator's colleague to state. Now what I desire to know is if the Senator also stated to the Secretary that from his information, derived from information from the neighborhood, he was satisfied that they had not given their consent?

Mr. SAUNDERS. I reiterate what I said before, that I had heard from citizens living in that part of the State that the Indians did not want to go, and I said so to the Secretary.

Mr. HOAR. The Senator expressed his own belief to that effect?

Mr. SAUNDERS. I did not go with this attorney, and I do not know anything about what he may have said; but I said to the Secretary that I believed the Indians did not want to go and that we protested—those were about the words we used—against their being sent away contrary to their will.

Mr. DAWES. I do not desire to be diverted——

Mr. CAMERON, of Wisconsin. If the Senator will allow me to ask him a question, what official information, if any, was in the Department at the time the order for the removal of the Poncas was made in regard to their consent to such removal?

Mr. DAWES. If the Senator will keep me in mind of that interrogatory, I will answer it before I conclude. I am not to be diverted from the question, whether the Secretary was ignorant of the subsequent outrage or not. There was no outrage at all if the Poncas gave their consent. The law authorized their removal upon one condition, and one only, and unless that was complied with they could no more be removed from their land than I can from mine. It was because of the violation of that condition that an outrage admitted by the Secretary of the Interior was committed. I have shown that when the Secretary came into office, assumed control of this agent, and took him into his service every Ponca Indian was on his proper territory. They were removed after that. If by their own consent, no outrage was committed. If without their consent, the outrage was committed. That the Secretary knew all the facts that make up the outrage is what I am trying to impress upon the Senate. I have it from all these representations to him now on record in the Department. I have it from the statement of their own attorney, vouched to be a reliable man. I have it further from the man who did the act. He got disgusted with his work, there was so much interference with him. Although he entered with zeal into the work of removing them without their consent, yet the interference with him was so great that he became disgusted and telegraphed to the Department to stand firm. The Department at first, on the representation of this attorney, felt disposed to make investigation, but the next morning informed him that the work must go on. The agent stopped in his work and came to Washington. Let us hear what he said on the 12th day of February, 1880:

I saw the Commissioner of Indian Affairs, and with him saw the present Secretary of the Interior, before whom I stated all the facts, giving all the information in my possession, submitting to them the whole case, and asking them what should be done. I was by them told to put my communication in writing; but before doing so I learned from the Secretary that the Poncas would be removed, and that, if necessary—

I call the attention of the Senator from Wisconsin—

and that, if necessary, troops would be called upon to enforce the removal.

He put his statement in writing and signed it; it is on file in the Interior Department; and in that he declares it to be his view that they should be removed and troops used if necessary. He returned to his work, and the Commissioner telegraphs him his approval. He stops in Chicago, at the headquarters of the Army, and there learns that troops would be sent him by boat; goes back to his work and completes it with forty soldiers, between whom were marched these Ponca Indians out of their home and to the Territory.

Was the Secretary ignorant of this outrage? This is the outrage; there is no other laid to anybody's door. Who is responsible for it if the man who ordered it done is not? Out of this unlawful enforced removal of these men grew this wrong, and the purpose to do it carried along with it all the unlawful outrages that have followed. There was no authority of law for doing what was done, and Congress has in no particular ratified that act. It is an unlawful act to-day, and all that flowed from it is unlawful. There is, I answer the Senator from Wisconsin, no other evidence in the Interior Department, if we can rely on the call upon it for information, that shows any consent whatever.

I repeat that to claim that they gave their consent is to dispute the wrong itself, which is admitted by the Secretary. The purpose to, in violation of law, take these Indians to the Indian Territory runs through all subsequent acts. Out of it grew the imprisonment of the two brothers in Dakota. Out of it grew the seizing by soldiers, in the peaceable home of the Omahas, of Standing Bear and his associates. Out of it grew the imprisonment of Big Snake and his two associates, for three long months, in order to overawe his people unlawfully held in the Territory. Out of it grew the subsequent attempt by soldiers without authority of law to manacle Big Snake in the office of the agent, in which he was slain. Out of it grew the arrest of friends of these Poncas, paying them friendly visits for friendly offices, and the marching them out of the Territory. Out of it grew a determination on the part of those who inspired and did it to obtain from Congress an enactment that would fix these prisoners by a law in the Territory. In 1878 this Secretary sent to the Indian Committee a bill enacting that his prisoners should be taken off his hands and held by law in the Territory. And now that diplomacy coming in to the aid of force has proved too much for these Indians, it is boasted that fifty millions of civilized people have been more than a match for five hundred barbarous Poncas, and have wrung out of them, out of their very despair, their consent to remain in the Indian Territory. When the President, moved by a public doubt in this matter, sent a commission to the Territory to make plain the real condition of things and to report to him, (I use the words of the commission,) what justice and humanity required to be done, they, on the ground, while meeting evidence from the lips of the Indians that they were willing to stay there, felt that justice and humanity required that in any redress of grievances they should be permitted to choose their home either in the Indian Territory or in Dakota. The President, in that manly message so creditable to his head and his heart with which he communicated to Congress that report, urged upon Congress that redress, but upon the condition that the Poncas should have free choice of their home in the Indian Territory or in Dakota.

Thereupon the man who set in motion this work held these men under the strong power of the Government, to use the language of General Miles, as prisoners, undertook to arraign the commissioners before a committee of this body for recommending that these men have permission to seek their home in either the Indian Territory or in Dakota as they chose, and has prepared a bill and sent it to a committee of this body providing that it shall not be lawful for them to choose their home between the Indian Territory and Dakota, and no relief can come through Congress to them which contains that free choice except it be over the opposition of the man who signs this letter.

Sir, this is the record of the Ponca Indians; this is the true character of that proceeding out of which this great wrong was inflicted upon that people. I have shown who, with full knowledge of these facts, ordered it to be done. I have shown who, in carrying out that purpose, has laid violent hands upon human rights for the last three years; and I have shown who it is that stands now in the way of all redress to that people that does not take away from them the right to choose their home, whether it be in the Indian Territory or at their old home in Dakota.

The man who has this record upon his official acts will take his place in the court where men's acts are tried not in the prosecutor's chair. He is the last man to arraign a Senator in his place for the discharge of his official duty. To the criticisms of this Senate, in which I have had a seat for six years, and above that, to the criticisms of that Commonwealth which has trusted me so long and so much, I will ever bow; but I will not listen to the man with this record upon him who comes to arraign me for my official acts. I submit to the Senate whether it is becoming such a man to stalk into this Senate Chamber, with the mace of executive authority in his hands, and attempt to lecture a member of this body upon the manner in which he discharges his duty here.

Mr. INGALLS. Mr. President——

Mr. WALLACE. I ask for the regular order.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The Chair will first lay before the Senate some bills from the House of Representatives for reference.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (H. R. No. 1102) granting a pension to John S. Corlett;

A bill (H. R. No. 4610) granting a pension to Mary Leggett; and

A bill (H. R. No. 5677) granting a pension to Stephen P. Benton.

The bill (H. R. No. 6535) to allow marshals and deputy marshals to take bond in certain cases was read twice by its title, and referred to the Committee on the Judiciary.

The bill (H. R. No. 3520) to establish a port of delivery at Indianapolis, in the State of Indiana, was read twice by its title, and referred to the Committee on Finance.

KANAWHA RIVER TOLLS.

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

Whereas appropriations have been made for ten years past by Congress for the improvement of the Great Kanawha River of West Virginia under the direction of the War Department; and

Whereas a company calling itself the Kanawha Board, under some pretended authority, not of Congress, assumed to levy and collect tolls on the commerce of said river from the town of Charleston to the mouth of the river flowing into the Ohio: Therefore,

Resolved, That the Committee on Commerce be directed to inquire into the fact and authority of the said Kanawha Board's levy of tolls on navigable waters of the United States accessible from other States and waters than those of West Virginia and to report such remedy as shall seem expedient.

PRESIDENTIAL ELECTION.

Mr. WALLACE. I gave notice on Wednesday that I should ask the Senate to hear me this morning upon the constitutional amendment submitted by myself. I yielded the floor to the Senator from Massachusetts [Mr. DAWES] for a personal explanation, and I trust the Senate will permit me to go on now in accordance with the notice heretofore given.

The PRESIDING OFFICER. The Chair hears no objection.

Mr. WALLACE. Mr. President, on the 28th of January last I had the honor to submit for the consideration of the Senate joint resolution No. 148, proposing an amendment to the Constitution of the United States, which is in these words:

That hereafter the President and Vice-President of the United States shall be chosen by the people of the respective States in the manner following:

Each State shall be divided by the Legislature thereof into districts, equal in number to the whole number of Senators and Representatives to which such State may be entitled in the Congress of the United States, the said districts to be composed of contiguous territory, and to contain, as nearly as may be, an equal number of persons entitled to be represented under the Constitution, and to be laid off for the first time immediately after the ratification of this amendment, and afterward at the session of the Legislature next ensuing the apportionment of Representatives by the Congress of the United States; but no alteration after the first or after each decennial formation of districts shall take effect at the next ensuing election after such alteration is made. That on the first Tuesday in the month of November of the year 1884, and on the same days in every fourth year thereafter, the citizens of each State who possess the qualifications requisite for electors of the most numerous branch of the State Legislature shall meet at the places provided by State law within their respective districts and vote by secret ballot for a President and Vice-President of the United States, one of whom at least shall not be an inhabitant of the same State with the voter; and the person receiving the greatest number of votes for President and the one receiving the greatest number of votes for Vice-President in each district shall each be holden to have received one vote, which fact shall be immediately certified to the board

of canvassers of the State, to each of the Senators in Congress from such State, and to the President of the Senate. The votes shall be canvassed and the result in each district ascertained from the returns by the governor, the chief justice of the highest court of law, and the secretary of State of the proper State, who shall constitute the board of State canvassers, and they shall certify the result in said State to the Speaker of the House of Representatiqes of the United States within sixty days after the election, and their certificate shall be conclusive proof of such result. The Congress of the United States shall be in session on the second Monday in February, in the year 1885, and on the same day in every fourth year thereafter; and the Speaker of the House of Representatives, in the presence of the Senate and House of Representatives, shall open all the certificates, and the votes shall then be counted by the two Houses in joint convention met. The person having the greatest number of votes for President shall be President, and the person having the greatest number of votes for Vice-President shall be Vice-President of the United States.

This amendment contemplates a change in that provision of the Constitution of the United States which regulates the election of President and Vice-President by substituting for the electoral colleges a direct vote of the people for the candidates themselves. The electoral college has failed to answer the purposes for which those who originated it intended it. It was thought at the time of the formation of the Constitution that the substitution of a body of intelligent and leading citizens between the people and the candidates would enable the country, in the event of difficulty, to depend upon their judgment, integrity, and high position for the solution of those difficulties. The reverse of this has proved to be the fact in practice. Party discipline, party caucus, and the recognized will of party control, compel the electors to vote for the candidates named in their party caucus. It is the purpose of this resolution to substitute the will of the people directly expressed for this system. I submit it now with no hope of its immediate adoption, but as a contribution to the agitation from which alone a change can come.

The features of the system are:

First. The division by the Legislature of each State into districts, equal in number to the whole number of Senators and Representatives to which such State is entitled in Congress. Delaware, for instance, would be entitled to 3 votes, and would be divided by its own Legislature into three districts.

Second. The people are to vote in these districts, at an uniform time, directly for their candidate for President and Vice-President, one of whom, as at present, shall not be a citizen of the State in which the voter resides.

Third. The person having the highest number of votes in each district (a plurality being sufficient) to be entitled to one vote out of the whole number to which the State is entitled. Pennsylvania having 29 votes would have probably cast 10 democratic and 19 republican votes at the recent election.

Fourth. The returns of these votes to be made to the governor, chief-justice, and secretary of State, who shall canvass and return the same, which shall be conclusive proof of how the State voted.

Fifth. The votes thus returned to be counted by the two Houses in joint convention met.

Sixth. The person having the highest number of votes from all of the districts voting (a plurality being sufficient) to be elected.

Seventh. The qualifications of voters, the division of the State into districts, and the canvass of individual votes to be under control of the State and the mode of voting to be the secret ballot.

The districts are to be formed after each census of the United States has been taken, and are first to be formed immediately after the adoption of the amendment. No change in the districts can take effect at the first election after such change.

The qualifications of electors, as now prescribed by the Constitution of the United States for members of Congress, are preserved, and the universality of a secret ballot is enforced. The votes cast in each district by the electors, when computed by the election officers, are to be returned to the State canvassing board, and whoever shall have received the highest number of votes in such district shall be held to have received one vote. The whole number of votes cast for each candidate in all the districts in any State are to be ascertained by a canvassing board, composed of the governor, chief-justice, and secretary of State, and they are within sixty days after the election to certify the number of votes by districts received by each candidate in each State to the Speaker of the House of Representatives. This return is to be the only and conclusive proof of the result in that State. The returns thus made to the Speaker of the House are to be laid before the two Houses in joint convention met, at the usual time, and they are authorized and empowered there to count the vote and determine the result. The candidate for President and Vice-President, respectively, receiving the highest number of votes out of the whole number of districts voting, shall be declared elected President and Vice-President of the United States, thus substituting the plurality vote both in the districts and of the districts for the majority rule of the States or of the electoral colleges which is now in operation.

It will be noted that this system changes, first, the electoral college to a direct vote by the people in districts; second, the plurality or majority in each district contribute one vote to the election of President and Vice-President directly; third, the State has entire control of the elections and the certificate thereof to Congress; fourth, the two Houses, acting together, are given sole power to count the votes; fifth, the necessity for a majority of the electoral college and for action in any event by the House of Representatives voting by States is dispensed with, and the plurality rule by districts adopted.

The district system is no new thought in the politics of this country. It found its origin in the constitutional convention of 1787, on the motion of Judge Wilson, of Pennsylvania, and it was initiated in Congress in the very early days of our history. It has been elaborated and enforced from time to time by leading Senators and members of the House, as an abstract of our history, which I give herewith, will prove:

This is not a process of entire and absolute consolidation by a direct vote of the whole people of all the States, but it is a vote by the people, in the districts made by the State, directly for the candidates, which votes are to be returned to State authority and conclusively certified thereby as the result of State action. In this respect it is as different from an universal vote throughout the whole country ascertaining results by its aggregate as is the present system from a direct vote by the people.

One of the leading purposes to be attained by this amendment is representation of the minority in each State, and as a consequence the destruction and absolute eradication of sectionalism. Under this system in the last election Pennsylvania would have probably chosen nineteen electors for Garfield and ten for Hancock, while Virginia would have given eight for Hancock and three for Garfield. It is simple and direct, but it professes to contain no new thought. It is the mere application of what we have come to recognize as the American system of elections to the practical working of the Federal Constitution in the election of President and Vice-President.

In the elections of our county and State officials as well as in the election of members of Congress, the person having the highest number of votes, whether he have a majority or a minority, is the chosen candidate, but at present under the Federal system a majority of the whole electoral vote, or of the States in the House of Representatives, is required. I can see no sufficient reason now for this difference, if the just voice of each State can be preserved. Our experience teaches us that there is no longer any necessity for the continuance of the rigid majority rule. State equality in the Senate and State independence in its vote are, by the district system as herein embodied, fully preserved.

I can see no practical reason for compelling a majority of all the States, as such, to be obtained either by the useless processes of the electoral colleges or, failing that, of the vote by the House of Representatives by States, with all its dangers of civil war, corruption, and anarchy. The preservation and recognition of the equal and independent voice of each State and of the minority as well as of the majority of its people is to my mind the vital thought, and although a plurality elects, my judgment is that we will as frequently elect a majority President under the district system as under the system now in operation.

There can be no good reason, as I see it, why a plurality of the American people should not control when they have fair opportunities and free suffrage in the selection of their rulers; nor can I conceive any reason why it is essential now to preserve the old thought that a majority of the States should cast their electoral votes for any candidate before there is an election, in face of the fact that he is often in a minority of the whole people. Under the present system there are many instances in which while the candidate elected has a majority of the electoral colleges he has a minority of the people. This was notably the case in 1876, as it was in 1860 and is in the recent election to a smaller extent. It seems to me better to err in the other direction if we must err at all. For all purposes needed to effect Federal results, the thought that is embodied in our every-day practice in electing township, city, county, and State officials and Congressmen can now well and profitably be embodied in the Federal Constitution.

The lesson of the election just completed by the count by the House this week is full of instruction. There are 369 electoral votes. Garfield received 214, Hancock, without Georgia, 144. If New York had cast her 35 votes for Hancock, the vote of Georgia would have been required to decide the contest, or the House would have been compelled to elect, for with New York voting for Hancock there would have been a tie at 179 votes, and a tie in the House voting by States would probably have resulted; and thus the peace of the country might have been broken by the tremendous convulsions consequent on such a condition of affairs. The plurality rule would obviate all this.

By this amendment the States are not divided into districts upon the ratio on which their representation in the lower House of Congress would be fixed, but there is given to each State as such, in addition to its representation in the lower House, her equal representation in the Senate. So that while New York has thirty-three members of the lower House, she has 35 votes for President; and while Rhode Island has but two members of the lower House, she has 4 votes for President. By this is preserved State individuality and State control, and to my mind sufficient of the Federal system, if we stand by the plain reading of the Constitution in other respects.

The correction of the vicious system of marked ballots is provided for also by prescribing a secret ballot, and although this enters the domain of State control, its wisdom as well as its necessity seem to me to be apparent.

The danger so apparent to us all in recent years of anarchy and confusion from the doubts as to the true method of counting the votes for President and Vice-President, and from disputes as to who

shall control and declare them, is provided for by the return of the State being made conclusive proof and by Congress being made the controlling power when in joint convention met.

These are some of the thoughts to which this amendment gives force. I shall endeavor now to elaborate them further and to meet some of the objections to this system toward which I have no doubt the minds of Senators are tending.

The present system of choosing electors is based upon the constitutional provision that "each State shall appoint, in such manner as the Legislature thereof may direct," its electors for President and Vice-President. The power of the State Legislatures to appoint electors themselves, to authorize the people to choose them by ballot upon general ticket, and also to choose them in districts, is given by this provision. In practice and as a result of popular opinion, they are now chosen by the people in every State upon general ticket; but our history has seen all three of these modes of choice in operation at one time. Instability and opportunity for chicane and management, therefore, exist, which, in so grave a matter, are dangerous in the extreme, and an uniform system of universal application, and under whatever control, is manifestly better under existing conditions than this complex arrangement. An uniform system is better than a triple system, as popular will is better than either electoral or legislative will. The power of party and the sectional line have made the electoral system an utter failure, and our people will not tolerate the choice of their rulers by the Legislatures. We are left, then, to but the two systems, the universal direct vote of the whole people or a direct vote of the people under State control by districts. The first and greatest difficulty in the way of an universal direct vote of the whole people of all the States is that it is utter destruction of the federative system and produces practical consolidation. By it, State lines are obliterated and State independence and equality are lost sight of. Under it a few populous States voting for a candidate popular there, would overwhelm the remainder, or by the division of their people a small State giving a large majority for one candidate would outweigh the voice of many larger ones. In the late election the majority in Texas for one candidate was greater than the aggregate majorities in New York, Pennsylvania, and Ohio for the other.

The preservation of the federative system utterly forbids the universal direct vote. It would not aid in the destruction of sectional feeling, but the very reverse, for the tendency of majorities is always to grow, and when based upon passion or interest, sectional majorities invariably increase. Such a rule would perpetuate bitterness, for the result would demonstrate that there was a nearly equal division of the people of one section and a decided preponderance of those of the other which would overcome the former. An universal direct vote can never be had, except under a new compact in which the smaller States will agree to surrender their equality and independence, and this is neither desired nor desirable.

Under the system of a direct vote by districts, each State has precisely the same relative weight as now. Pennsylvania would cast twenty-nine votes; she has now twenty-nine electors and twenty-nine members of Congress. Rhode Island would cast four votes; she has now four electors and four members of Congress. It is true that in the election by the people in districts a part of the districts would vote for one person and a part for another, so that the result would be to some extent national more than State; but this is the case with members of the House of Representatives now, and the small States have due and full weight and power in the fact that the large States are nearly all closely divided in politics, and the votes of the districts will follow in nearly the same proportion. A gerrymander is the only argument against this, but even the worst of gerrymanders is preferable to the dangers and evils of the present system.

It has been well said that—

> Under the present system, the State voting solidly, there is great temptation to fraud. Where the condition of parties is nearly balanced in a State, a successful fraud may determine the vote of the whole State. This puts the whole votes of States in the hands of the large cities. The material with which to perpetrate frauds predominates especially in large cities, such as New York, Philadelphia, Boston, Baltimore, Cincinnati, Saint Louis, and New Orleans. Under the district system the frauds in the large cities would only affect the vote in the district in which they occurred, and could not, in their consequences, extend to the vote of the whole State. But under the present system the successful city fraud may determine the vote of the whole State.
>
> Where the fraud will only affect the vote of a single district, the temptations to commit it are greatly diminished. Men will not take the risks and incur the expense of committing a great fraud to carry the vote of a single district, which they would do if the result of the fraud was to determine the vote of the whole State, and perhaps secure the election of a President.

The electoral system is an election by States and not by the people, and in effect prevents the voter from expressing his choice for President unless he follows party caucus or convention, and even then he cannot vote directly for the man of his choice. This rule works results which are more aristocratic than republican. Sectional lines will be broken up by the district system, and "a promiscuous division of sentiment extending over the whole nation and not capable of being delineated by State lines or the course of rivers" will take the place of a solid North and a solid South. Geographical locality will not so completely identify the political character of the voter as now, for each candidate will find votes in every section.

Mr. Pickens said in the House in 1814:

> By any mode of giving an *entire vote* to each State the will of the majority of the people of the Union is not certain to prevail. A State however divided will give the same united vote with a State however unanimous.

> A reason against any mode of giving the undivided vote of the States, of all others the most important, and most affecting the vital interests of the Union, is its tendency toward *a geographical severance of parties*. By the principle of self-defense all the States must adopt such a mode, unless a uniform plan is established; indeed, they have nearly all so acted at the late election as to give unanimous votes; and by this means a whole section of the Union, with a small exception, voted for one individual while the opposite section supported his opponent, and these sections are divided by regular *State lines*. Now does a Chief Magistrate so elected appear to represent the whole Union; and will not a small number of repetitions of such events naturally draw the opposite parties in looking toward their opponents to look directly across this divisional line?

A direct vote of the people for the candidate of their choice is their right, and the electoral system was a device of those who did not trust the people, to deprive them of this right. The electoral plan was regarded with suspicion and aversion by the adherents of Jefferson. Alexander Hamilton, the father of the federal party, who desired the establishment of a strong national government, and who favored a life tenure for the President, subject only to impeachment, was the author of the electoral system. The historical fact is that the electoral college is simply a relic of the aristocratic theory of government insisted upon by the old-time federalists. It was accepted by the earlier democrats because they were obliged to take the Constitution as a whole and could not accept or reject it in part.

Mr. Hamilton writing in the Federalist (paper No. 68) refers to the manner of choosing the President provided for in the Constitution in the following language:

> It was desirable that the sense of the people should operate in the choice of the person to whom so important a trust was to be confided. This end will be answered by committing the right of making it not to any pre-established body, but to men chosen by the people for the special purpose and at the particular conjuncture. It was equally desirable that the immediate election should be made by *men most capable of analyzing the qualities adapted to the station*, and acting under circumstances favorable to deliberation and to a judicious combination of all the reasons and inducements that were proper to govern *their choice*. *A small number of persons* selected by their fellow-citizens from the general mass will be most likely to possess the information and discernment requisite to so complicated an investigation.

Distrust of the popular will cannot be more clearly expressed than in the language just quoted. The advocates of a strong government had no faith in the ability of the people to govern themselves. Their constant aim was to concentrate the powers of government in the hands of a select few. Among other instrumentalities employed by them to carry out their purposes was the electoral college. They desired that the power to select the President should be vested in "a small number of citizens." They believed the popular mass incapable of making an intelligent choice, and therefore they devised a plan by which, to quote the language of Hamilton, the immediate election would be "made by men capable of analyzing the qualities adapted to the station." But the design of the federalists was frustrated by the democratic influences, which have finally made the electors mere agents for the registry of the popular will. Instead of exercising their own choice, as they are empowered to do by the Constitution, they simply cast their votes as they are directed by that portion of the people who choose them at the ballot-box. Nevertheless the electoral machinery itself is the same old aristocratic contrivance which now by common consent has become useless for any purpose save to thwart the people in expressing their choice, and, as we all know, is dangerous in its execution.

In the convention of 1787, Pennsylvania was the only State voting for the election of President by popular vote, and her sons, Wilson and Morris, advocated with power and eloquence the system of election in districts by the popular vote. This proposition received but the votes of Pennsylvania and Maryland. Her sons believe now, as Franklin, Morris, Wilson, Jackson, and Benton taught, "the State is the people," and the expression of their voice by their direct vote under the federative and not the national system is, I believe, their wish now. In the debate in the Virginia convention on the adoption of the Constitution, James Monroe, afterward President of the United States, said, referring to the mode of electing the President contained in the Constitution:

> The President might be elected by the people, dependent upon them, and responsible for maladministration. As this is not the case I must disapprove of this clause in its present form.

In President Jackson's first annual message he earnestly pressed upon Congress the importance of so amending the Constitution as to dispense with all intermediate agencies in the election of President and Vice-President. Said he:

> To the people belongs the right of electing their Chief Magistrate; it was never designed that their choice should in any case be defeated, either by the intervention of electoral colleges, or by the agency confided, in certain contingencies, to the House of Representatives.
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> * * * * * * *
>
> I would therefore recommend such an amendment of the Constitution as may remove all intermediate agency in the election of President and Vice-President. The mode may be so regulated as to preserve to each State its present relative weight in the election; and a failure in the first attempt may be provided for by confining the second to a choice between the two highest candidates.

He recommended also a limitation of the presidential service to a single term of four or six years.

General Jackson renewed the above recommendation in each of his seven annual messages following; and he was especially earnest in his desire to prevent any election for President ever being determined by the House of Representatives.

The arguments in behalf of the popular vote by districts which have been made by statesmen of the past are so full and convincing

that it is only necessary to read them to be convinced. Jackson, Van Buren, Benton, Calhoun, Dickerson of New Jersey, McDuffie, Pickens, Johnson, Morton, and scores of others are on record in its advocacy, and my argument is complete when I bring to the notice of the Senate and the country their reasons for their belief through an abstract of the history of their measures for its accomplishment.

ELECTION OF PRESIDENT AND VICE-PRESIDENT.—PLANS PROPOSED IN THE FEDERAL CONVENTION.

1. By Edmund Randolph, of Virginia:

That a national executive be instituted, to be chosen *by the national legislature.*—5 *Elliot's Debates*, 128.

Adopted—eight States against two. (*Ibid.*, page 144.)

Adopted unanimously. (*Ibid.*, page 324.)

2. By James Wilson, of Pennsylvania:

That the States be divided into —— *districts*, and that the persons qualified to vote in each district for members of the first branch of the national legislature elect —— members for their respective districts to be electors of the executive magistracy; that the said electors of the executive magistracy meet at —— and they, or any —— of them, so met, shall proceed to elect by ballot, but not out of their own body, —— person in whom the executive authority of the national government shall be vested.—*Ibid.*, 143.

Negatived 2 to 8. (*Ibid.*, page 144.)

3. By Elbridge Gerry, of Massachusetts:

That the national executive should be elected *by the executives of the States.*—5 *Elliot's Debates*, 174.

Rejected—nays 9, Delaware divided. (*Ibid.*, page 174.)

4. The original draught of article 2, section 1 of the Constitution, as finally adopted, provided that in case there was no choice by the electors "the *Senate* shall choose by ballot the President" from the five highest on the list. Reported by committee of eleven. (*Ibid.*, page 507.)

5. John Rutledge, of South Carolina, proposed election of President by joint ballot of the two houses of congress. (*Ibid.*, page 472.)

6. Gouverneur Morris, of Pennsylvania, moved to strike out "national legislature" from Randolph's proposition and insert "*citizens of the United States.*" Lost—yea (Pennsylvania) 1, nays 9. (*Ibid.*, pages 322–324.)

7. By Alexander Hamilton:

The supreme executive authority of the United States to be vested in a governor, to be elected to serve during good behavior, the election to be made by electors, chosen by electors, chosen by the people in the election districts aforesaid—

i.e. by districts into which he proposed the States should be divided for the election of senators. (5 Elliot's Debates, 205.)

8. By Oliver Ellsworth, of Connecticut:

To be chosen by electors, appointed by the legislatures of the States in the following ratio, to wit: one for each State not exceeding 200,000 inhabitants; two for each above that number and not exceeding 300,000; and three for each State exceeding 300,000.

The question being divided on the first part, "shall the President be chosen by electors?" Carried—yeas 6, nays 3. On second part, "shall electors be chosen by the State legislature?" Carried—yeas 8, nays 2. (*Ibid.*, page 338.)

9. By Mr. Wilson, of Pennsylvania, (as a compromise:)

That the executive be chosen by electors to be taken by lot from the national legislature.—5 *Elliot's Debates*, 362.

10. The plan finally adopted (section 1, article 2 of the Constitution) agreed to by a vote of 10 to 1 on Sherman's motion to strike out "Senate shall immediately close" and insert "the House of Representatives shall immediately choose by ballot one of them for President, the members from each State having one vote." (*Ibid.*, pages 519, 520.)

[NOTE.—It was the almost unanimous opinion of members of the Federal Convention, that if the executive should be chosen by the national legislature he should be ineligible a second time. (*Ibid.*, page 337.)]

As a compromise and to guard against evils incident to election by Congress, Gouverneur Morris moved that choice be made "by electors chosen by the people of the several States." (*Ibid.*, page 473.)

2. ARGUMENTS IN THE FEDERAL CONVENTION.

Gouverneur Morris, of Pennsylvania, opposed a choice by Congress. Was in favor of election "by the people at large, by the freeholders of the country," on the ground that there can be no "combination of populous States;" that the people at large will always be well informed as to "the great and illustrious characters who merit their esteem and confidence," and that "if chosen by the national legislature he will not be independent of it;" and if not independent, "usurpation and tyranny will be the consequence." (5 Elliot's Debates, 322, 323, 334.)

Mr. Wilson, of Pennsylvania, favored the *district system*, and opposed election by national legislature, on the ground that "the executive in that case would be too dependent to stand the mediator between the intrigues and sinister views of the representatives and the general liberties and interests of the people." (*Ibid.*, page 323.)

Mr. Madison, in favoring a choice by electors, said:

If it be a fundamental principle of free government that the legislative, executive, and judiciary powers should be *separately* exercised, it is equally so that they be *independently* exercised. There is the same, and perhaps greater, reason why the executive should be independent of the legislature than why the judiciary should. A coalition of the two former powers would be more immediately and certainly dangerous to public liberty. * * * He was disposed, for these reasons, to refer the appointment to some other source. *The people at large* was, in his opinion, the fittest in itself. The people generally could only know and vote for some citizen whose merits had rendered him an object of general attention and esteem. There was one difficulty, however, of a serious nature attending an immediate choice by the people. The right of suffrage was much more diffusive in the Northern than the Southern States, and the latter could have no influence in the election, on the score of the negroes. The substitution of electors obviated this difficulty, and seemed, on the whole, to be liable to fewest objections.—5 *Elliot's Debates*, 337.

ARTICLE II, SECTION 1, CLAUSES 1 AND 2 OF CONSTITUTION—OUR PRESENT ELECTORAL SYSTEM.

The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice-President, chosen for the same term, be elected as follows:

Each State shall appoint, *in such manner as the Legislature thereof may direct*, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

See twelfth amendment, which supersedes and annuls clause 3 of article 2, section 1.

ARTICLE II, SECTION 1—THE TWELFTH AMENDMENT.

1. *The old system.*—The difficulties attending the election of Jefferson and Burr were anticipated as early as 1797. The mode of election provided in section 1 of article 2 was regarded as fatally defective. The election of a Chief Magistrate had provoked more discussion in the Federal Convention than any other feature of the Constitution, and the ill-digested compromise finally effected was the least satisfactory to the members of that body. As the electoral system was regarded in Congress with less favor than any other part of the Constitution its reform was the subject of the first important amendment proposed. The statesmen of that period foresaw the dangers that would result from uncertainty in the mode of electing a Chief Magistrate, and accordingly William Smith, of South Carolina, in the House, January 6, 1797, proposed an amendment to the effect that "the electors of President and Vice-President be directed to designate whom they vote for as President, and for whom as Vice-President." (Annals, Fourth Congress, page 1824.)

The same proposition was renewed in the House by Mr. Foster, of New Hampshire, February 16, 1799. (Annals, Fifth Congress, page 2919.)

And in the Senate, by Humphrey Marshall, of Kentucky, January 24, 1798, in Fifth Congress, requiring electors to write on their ballots the names of persons voted for as President and Vice-President. (*Ibid.*, page 493.)

January 24, 1800, a committee of five was appointed by the Senate to consider "what provisions ought to be made by law for deciding disputed elections of President and Vice-President, and for determining the legality or illegality of the votes given for those officers in the different States." (*Ibid.*, Sixth Congress, page 29.)

February 4, 1800, an amendment was proposed in the House requiring electors to disignate persons voted for as President and Vice-President. (*Ibid.*, page 510.)

The district system.—In the House, March 14, 1800, John Nicholas, of Virginia, submitted the following amendment:

That, after the 3d day of March, 1801, the choice of electors of President and Vice-President shall be made by dividing each State into a number of districts, equal to the number of electors to be chosen in such States, and by the persons in each of those districts, who shall have the qualifications requisite for electors of the most numerous branch of the Legislature of such State, choosing one elector in the manner which the Legislature thereof shall prescribe.

Then follows a clause directing the choice of Representatives in the same manner. (Annals, Sixth Congress, page 627.)

Referred to committee of five. (*Ibid.*, page 785.)

January 22, 1801, the committee of five submitted an elaborate report to the House, describing the *variety of modes* practiced in different States under article 2, section 1, declaring that "a mode of electing the President and Vice-President which might at once combine the expression of the public sentiments of the people of the respective States, with a perfect assurance of the due appointment of the electors for that important purpose, is a discovery greatly to be desired," but that it was inexpedient to change the Constitution in the manner proposed by Mr. Nicholas. (*Ibid.*, pages 941–946.)

January 30, 1801, James A. Bayard, of Delaware, submitted a joint resolution to the House providing that when two persons have an equal number of electoral votes the *House* shall immediately choose one of them for President. (*Ibid.*, page 987.)

Referred to committee of fifteen February 2, 1801. (*Ibid.*, page 990.)

Report made February 6, 1801, embracing rules on which the Jefferson-Burr contest was decided. (*Ibid.*, pages 1005 to 1011.)

[NOTE.—The election being thrown into the House, balloting began February 11, 1801, and continued until the 17th, when Jefferson received the votes of ten States and Burr those of four. (*Ibid.*, pages 1022 to 1028. See also National Intelligencer, February 13, 16, and 18, 1801.)]

Mr. Jefferson, in a letter to James Monroe dated February 15, 1801, said:

Four days of balloting have produced not a single change of a vote. Yet it is confidently believed by most that to-morrow there is to be a coalition. I know of no foundation for this belief. * * * If they could have been permitted to pass a law *for putting the Government into the hands of an officer*, they would certainly have prevented an election. But we thought it best to declare openly and firmly, one and all, that the day such an act passed *the Middle States would arm*, and that no such usurpation, even for a single day, should be submitted to. This first shook them, and they were completely alarmed at the resource for which we declared, to wit, *a convention* to reorganize the Government and to amend it. The very word

convention gives them the horrors, as in the present democratical spirit of America they fear they should lose some of the favorite morsels of the Constitution. Many attempts have been made to obtain terms and promises from me. I have declared to them unequivocally that I would not receive the Government on capitulation; that I would not go into it with my hands tied.—*Jefferson's Works*, volume 4, page 354.

The necessity of a change after the events of 1801 was apparent. The Legislature of New York proposed an amendment, which was submitted to the House by Mr. Walker, providing for a specific designation of persons voted for as President and Vice-President. (Annals, Seventh Congress, page 509.)

February 20, 1802, Mr. Stanley, of North Carolina, submitted resolutions by the Legislature of that State to the same purport. (*Ibid.*, page 629.)

In the House, February 19, 1802, the following amendment was proposed:

That the State Legislatures shall, from time to time, *divide each State into districts* equal to the whole number of Senators and Representatives from such State in the Congress of the United States, and shall direct the mode of choosing an elector of President and Vice-President in each of said districts, who shall be chosen by citizens having the qualifications requisite for electors of the most numerous branch of the State Legislature; and that the districts so to be constructed *shall consist*, as nearly as may be, of contiguous territory, and of equal proportion of population, except where there may be any detached portion of territory not of itself sufficient to form a district, which then shall be annexed to some other portion nearest thereto; which districts, when so divided, shall remain unalterable until a new census of the United States shall be taken.

SEC. 2. That, in all future elections of President and Vice-President, the persons voted for shall be particularly designated by declaring which is voted for as President and which as Vice-President.—*Annals*, Seventh Congress, page 602.

February 1, 1802, resolutions of the Legislature of Vermont, recommending this amendment, were submitted by Mr. Morris, of that State, to the House. (*Ibid.*, page 472.)

The amendment proposed February 19, 1802, (the district system,) was taken up in the House May 2, and passed—yeas 47, nays 14. (*Ibid.*, page 1,293.)

Non-concurred in by Senate—yeas 15, nays 8; two-thirds not voting in the affirmative. (*Ibid.*, page 304.)

Renewed at second session, in the House, by Mr. Huger, of New York, and referred to the Committee of the Whole. (*Ibid.*, second session Seventh Congress, page 449.)

Postponed. (*Ibid.*, page 492.)

October 17, 1803, John Dawson, of Virginia, in the House, proposed an amendment requiring designation of persons voted for as President and Vice-President. Referred. (Annals, first session Eighth Congress, page 372.)

2. THE TWELFTH AMENDMENT.

In the Senate, De Witt Clinton, of New York, on the 21st day of October, 1803, proposed the Twelfth Amendment. (Annals, Eighth Congress, first session, page 16.)

October 22, Mr. Butler, of South Carolina, moved an amendment that at next election no person should be eligible who had served eight years, and thereafter no person should serve as President more than four years in eight. Carried—yeas 16, nays 15.

The proposed amendment was then referred to a committee of five. (*Ibid.*, page 21.)

After a long and acrimonious discussion, extending through the month of November, the amendment was adopted by the Senate—yeas 22, nays 10, on the 4th of December, 1803. (*Ibid.*, page 209.)

Reported to the House December 5. (*Ibid.*, page 642.)

Passed the House December 8—yeas 83, nays 42. (*Ibid.*, page 775.)

Ratification proclaimed by the Secretary of State September 25, 1804. (See Hickey's Constitution, page 38.)

3. THE DISTRICT SYSTEM.

In the Senate, January 20, 1813, Mr. Turner, in pursuance of instructions from the Legislature of North Carolina, proposed an amendment providing that States should be divided into districts equal to the whole number of Senators and Representatives; each district to appoint one elector by popular vote; electors to have power to fill vacancies; that districts for choosing Representatives and electors shall not be changed until new census and new apportionment. (Annals, Twelfth Congress, second session, page 57.)

Referred to select committee of seven. (*Ibid.*, page 58.)

February 18, 1813, reported with amendments and passed—yeas 22, nays 9, without discussion. (*Ibid.*, page 91.)

The amendment as it passed the Senate is in the following words:

That the electors of President and Vice-President of the United States shall be chosen by districts; and for that purpose each State shall, by its Legislature, be divided into a number of districts equal to the number of electors to which the State may be entitled. Each district shall contain, as nearly as may be, equal numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. In each district the persons qualified to vote for Representatives in the Congress of the United States shall choose one elector. The Legislature of each State shall have power to regulate the manner of holding elections and making returns of the electors chosen by the people.

In case all the electors should not meet at the time and place appointed for giving their votes, a majority of the electors met shall have power and forthwith shall proceed to supply the vacancy.

The districts for choosing electors of President and Vice-President of the United States shall not be altered in any State until an enumeration and an apportionment of Representatives shall be made subsequent to a division of the States into districts. The division of the State into districts shall take place as soon as conveniently may be after this amendment shall become a part of the Constitution of the United States, and successively afterward, whenever a new enumeration and apportionment of Representatives shall be made.—*Annals*, Twelfth Congress, second session, page 91.

Reported to the House February 19, 1813. Referred to Committee of the Whole. No action. (*Ibid.*, page 1082.)

An amendment *almost identical in language* was submitted by Mr. Pickens, of North Carolina, in the House, January 18, 1813. (*Ibid.*, page 848.)

Submitted again at next session by Mr. Pickens, December 20, 1813. Referred to Committee of the Whole. (*Ibid.*, Thirteenth Congress, first session, page 797.)

ARGUMENTS IN SUPPORT OF THE RESOLUTION.

By Mr. Pickens, in the House, January 3, 1814:

The object is to establish a uniform mode of choosing electors of President and Vice-President; and that mode to be by the free, fair, and direct vote of the people in the districts, qualifying the right of suffrage by the same rules which the States have prescribed for the choice of Representatives. * * * This will secure a just equality in the relative *weight of the States*. * * * If by this rule any State will gain or lose in relation to its present comparative weight, it will lose only what in justice it ought. It illy comports with the dignity or real interests of the great Confederacy to suffer this struggling among the States for advantage over each other.

He then pointed out how, under the operation of the second clause of section 1, article 2 of the Constitution, State Legislatures may deprive the people of all power of choice, and referred to the appointment of electors by the Legislature of New Jersey "at the moment when the people were about to exercise the right of voting for electors." The same had occurred in North Carolina.

Continuing, Mr. Pickens said:

In each district the candidates will be known either in person or character to the people, and they will know the interests of the people whose opinions they propose to represent, and the persons to whom they will be responsible for faithfully performing their trust. * * * If different sentiments or interests exist in any State, those sentiments or interests should in their proper proportion be put into the national scale, and the fair results of the whole will point out the true national representation. Political parties will be less *sectional* than on any other plan. Where each single district gives a distinct vote, the political character of the voter will not be so identified by geographical sections, but more interspersed over all sections of the country.

* * * * * * * *

It is a rule of policy which applies to all public measures, and more especially to the concerns of a nation, that next to the object of acting rightly is that of rendering *general satisfaction*.

Elections will be best secured against intrigue and corruption where this power is exercised *by the scattered freemen at large*.

* * * * * * *

The proposed method will arrive the nearest at a fair equality between the relative weight of the States.

By any mode of giving an *entire vote* to each State the will of the majority of the people of the Union is not certain to prevail. A State however divided will give the same united vote with a State however unanimous.

A reason against any mode of giving the undivided votes of the States, of all others the most important and most affecting the vital interests of the Union, is its tendency toward *a geographical severance of parties*. By the principle of self-defense all the States must adopt such a mode, unless a uniform plan is established; indeed, they have nearly all so acted at the late election as to give unanimous votes, and by this means a whole section of the Union, with a small exception, voted for one individual, while the opposite section supported his opponent, and these sections are divided by regular *State lines*. Now, does a Chief Magistrate so elected appear to represent the whole Union? And will not a small number of repetitions of such events naturally draw the opposite parties, in looking toward their opponents, to look directly across this divisional line.

Under the *district plan*, he argued, there would be "a promiscuous division of sentiment extending itself over the whole nation, and not capable of being delineated by State lines or the course of rivers." (Annals, Thirteenth Congress, first session, pages 828 to 835.)

Mr. Gaston, of North Carolina, supported the resolution in a lengthy speech. After describing the union of the *federative* and *popular* principles in the existing mode of choosing a Chief Magistrate, he said:

The amendment now before us is perfectly in character with the symmetry of this plan. It oversteps none of its outlines; it alters not the ratio of electors, their duration, their mode of voting, nor the materials of which they are composed. It directs only a uniform mode of apppointing them, which practically corresponds with the views of the [federal] convention. * * * It will narrow the range of faction and diminish the scope of intrigue. The political combatants will come into the field fairly.

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It is by this method that the voice of the people may be fairly expressed. There may be difference between the relative strength of minorities in any two districts, but when all the districts are taken into the computation such difference must be equalized. He who obtains the suffrage of more than half of the districts must, in all human probability, have a majority of the suffrages of the people. But how is it when each State is made to throw all its votes into one scale, however much the citizens of that State may be divided? A majority of the votes thus obtained is no evidence of the sanction of a majority of the people.

When the electors of President are chosen by States, the *minority* in each State is utterly without weight. * * * Let the voice of every part of the nation be heard in the appointment of the Chief Magistrate, and the minority in each State acquires an importance which insures to them respect and political freedom.

He argued further that this plan will not deprive the State governments "of a single privilege which is necessary to their support, or to the full exercise of their peculiar powers," and continuing, said:

A mode of voting which throws the entire voice of each State into the scale of its favorite candidate, though it may bring about a co-operation of State with State, in fact disunites the people and breaks them into distinct masses. *Such* a co-operation of State with State, far from being productive of benefit to the nation, is scarcely less to be dreaded than the array of State against State. The opposition of individuals is harmless, and their union most salutary.—*Annals*, Thirteenth Congress, first session, pages 835-843.

The vote, January 4, 1814, in Committee of the Whole House on adopting the resolution was—yeas 57, nays 70. (*Ibid.*, page 849.)

The vote in the House, January 31, 1814, on concurring with the

Committee of the Whole in their disagreement—yeas 82, nays 64. Lost, two-thirds not voting therefor. (*Ibid.*, page 1196.)

The same proposition again introduced by Mr. Pickens at the next session—March 6, 1816. (Annals, Fourteenth Congress, first session, page 1150.)

Legislatures of Virginia and North Carolina recommend passage of the same. (*Ibid.*, pages 140–44.)

Same amendment submitted again by Mr. Pickens at next session, December 11, 1816. (*Ibid.*, second session, page 256.)

December 17 Mr. Pickens, in Committee of the Whole, made another argument in support of the resolution. He insisted that it proposed to ingraft no new principle into the Constitution:

> The objection, therefore, which is urged by some, that the features of our Government should not be altered will not apply to the proposed amendment, inasmuch as it embraces no new feature, and fixes upon a uniform rule, rendering it *unalterable by the varying views of the States and the changes of factions and times.*—*Annals*, Fourteenth Congress, second session, page 301.

He argued further that the *federative* principle would not be decreased by this plan, "as there is no alteration in the distribution or number of electors." (*Ibid.*, page 305.)

Mr. Root, of New York, repeated the arguments of the opposition, which were, in brief, that the proposed amendment destroyed the federative principle, and invaded the rights of the States.

Mr. Hammond, of New York, followed in support of the resolution. He insisted that it "would increase the value of the electoral franchise." He was willing that—

> The influence of the great States in their corporate capacity in the election of a President should be diminished. * * * If the people are not their own worst enemies let your electors be created immediately by and come directly from the people. When you do that, and not until then, you will be certain that your President holds his office by the consent and at the request of a majority of the people over whom he presides.—*Annals*, Fourteenth Congress, second session, pages 306–10.

John C. Calhoun, then a member of the House, in the course of his argument declared that—

> The proposed amendment, if adopted, would remove evils which experience has shown to exist, and which in future time, if uncorrected, may menace the existence of the Republic.—*Ibid.*, page 311.

Discussion was renewed in the House December 18.

John Randolph, of Virginia, opposed the resolution on the ground that, in his judgment, "it contemplated an abridgment of the powers of the States;" declaring at the same time that the existing mode "was a mockery—a shadow of a shade." (*Ibid.*, page 324.)

Robert Wright, of Maryland, supported the resolution. He argued that "the adoption of this amendment will produce uniformity in the mode and stability in its duration." (Annals, Fourteenth Congress, second session, page 326.)

There was then some discussion on an amendment proposed by Mr. Jewett, of Vermont, *that* TWO *electors be chosen by the State Legislatures*, as these two would represent the independent sovereignty of the State, while the other electors would represent population in proportion to numbers, or, in other words, the popular principle. (*Ibid.*, page 329.)

Mr. Gaston, of North Carolina, was inclined to favor the latter proposition, but would support the original resolution. After referring to the fact that the Legislatures of New York, Pennsylvania, North Carolina, Massachusetts, and Virginia had each sanctioned and recommended the adoption of the *Pickens amendment*, he argued that it affects the power of the States only by narrowing their discretion as to the mode of appointing electors. It does not deprive them of any beneficial power, "or of any power available to them by way of securing an equilibrium against Federal authority. The fact is, it only takes away from them a matter of detail and regulation, onerous in itself, furnishing the materials for factious intrigue and maneuver, and productive of no advantage to the States." "If the proposed amendment should communicate some additional power to the smaller States, it would be but to restore the ratio fixed by the original compact." (*Ibid.*, page 333–36.)

Mr. Benjamin Huger, of South Carolina, argued that both the *Federal* and *popular* principles are preserved intact by the *Pickens* amendment. (*Ibid.*, page 342.)

It involved the immediate agency of the people in choosing the President, and yet left the power of the States unimpaired. Each State would have two additional electors for the two Senators. Continuing, he said:

> One great and important object would be obtained. All danger from geographical divisions and jealousies on the approach of an election would be done away. Not only all the different interests of each State but all the various and complicated interests scattered throughout the vast extent of the whole United States would have a full and efficient voice in the election of the Executive. The East, the West, the North, and the South would each have its proportionate influence in the election; and no one or two geographical portions or divisions of the Union, by combination, intrigue, or otherwise, would be enabled to overwhelm the others. The Chief Magistrate would consequently be, as was intended, emphatically the choice of the whole people and of all the different interests throughout the Union, elected by the people in conformity to the ratio established upon the *Federal* and *popular* principles ingrafted on the Constitution.—*Annals*, Fourteenth Congress, second session, pages 345, 346.

The *Pickens* amendment was adopted in Committee of the Whole December 20, 1816—yeas 87, nays 51. Reported to the House and laid on the table. (*Ibid.*, pages 355, 356.)

On the 21st of January, 1817, Mr. Pickens submitted resolutions of the South Carolina Legislature urging the adoption of his amendment. (*Ibid.*, page 694.)

Mahlon Dickerson, Senator from New Jersey, in obedience to instructions from the Legislature of that State, submitted a proposed amendment, December 23, 1817, similar to the *Pickens* amendment, except that *two electors* should be appointed by each State in such manner as the Legislature might direct. (Annals, Fifteenth Congress, first session, pages 65–136.)

Referred to committee of five. (*Ibid.*, page 67.)

Called up February 11, and elaborately discussed by Senator Dickerson, who said:

> I will venture to predict that whenever the dissolution of our present form of Government shall take place, it will be in consequence of a failure to come at a just expression of the public will in the choice of a President.—*Ibid.*, page 179.

He argued that it is "an inadmissible construction of section 1 of article 2 of the Constitution that the Legislatures of the States *shall direct how they themselves* shall appoint electors;" that if such practice is "an infringement of the Constitution, of which it will hardly be denied there is a well-founded doubt, then it is highly expedient that the constitutional remedy of amendment be applied."

He insisted that it had been the aim in some of the large States "to secure to the dominant party an undue influence by suppressing the voice of the minority. This system of defeating every purpose of a fair election has become an art and a science, and is known by the technical term of *gerrymandering*." (*Ibid.*, page 181.)

Mr. Dickerson then reverted to the action of the Legislature of Pennsylvania in 1801, and that of New Jersey in 1808, to show how uncertain the existing system is in its operation and how liable to abuse. Continuing, he said:

> The probable result of the votes of all the districts, where numerous, would be as fair an expression of the public will as can be possibly obtained unless we resort to a general vote of the people at large.—*Ibid.*, page 184.

> Perhaps the larger States will feel a reluctance to adopt a measure which will in some degree curtail their power of forming combinations with each other, and thus controlling their sister States; but the very disposition thus to combine and control is a dangerous and tyrannical principle, and if attempted would lead to counter combinations on the part of the middle size and smaller States. * * * Their combinations and their collisions are about equally to be dreaded. * * * There is great simplicity in the plan of single districts; they are but little subject to confusion and mistakes, and as they are to be modeled but once in ten years, there will be but little difficulty in their arrangement. * * * The present amendment, if adopted, introduces *no new principle* into the Constitution. * * * It does not abridge the just rights of any State, but adds to the security of all. * * * It will suppress those extensive and dangerous intrigues which agitate the Union at the approach of every presidential election.—*Annals*, Fifteenth Congress, first session, page 185.

Nathaniel Macon, of North Carolina, March 9, 1818, argued in support of the Dickerson resolution. (*Ibid.*, page 187.)

The amendment was read a third time and negatived—yeas 20, nays 13; two-thirds not voting therefor. (*Ibid.*, page 242.)

Its passage recommended by the Legislature of North Carolina. (*Ibid.*, page 114.)

Senator Dickerson at the next session (instructions having been received from New York and New Hampshire favoring its passage) again introduced his amendment, December 2, 1818. (Annals, Fifteenth Congress, second session, page 33.)

Connecticut recommends its passage. (*Ibid.*, page 42.)

Mr. Dickerson, January 13, 1819, again advocated his amendment in a speech of great length, in which he said:

> This plan of dividing the States into districts is no new experiment; it is no innovation whatever upon the Constitution; it is only calculated to render permanent and uniform a regulation which has prevailed in nearly all the States, and which ought to have prevailed in all and would have prevailed in all but for the disorganizing spirit of party. Whatever mode may be adopted, it is universally allowed that it ought to be uniform throughout the United States.—*Ibid.*, page 139.

The district plan insures "that the President shall be elected by a majority and never by a minority of the people," and "will place insuperable barriers to the intrigues of ambitious individuals, who will hereafter agitate the Union at the approach of every presidential election. In the process of electing a President there ought to be more uniformity, more precision, and more certainty than in the election of any other officer; and yet, strange as it may appear, *there is less*." (Annals, Fifteenth Congress, second session, page 142.)

He argued that the variable, vague, and uncertain mode now in practice is more subject to abuse than that which obtains in choosing the meanest officer in the community, and continued:

> And as to any effectual control of the Executive, (in case he be ambitious,) that must depend, as it heretofore has done, rather upon the virtues of the individual exercising the office than upon any positive regulations contained in the Constitution. The broad road to monarchy is left open—encumbered, indeed, with obstructions, but such as will easily yield to the pressure of ambition.—*Ibid.*, page 146.

> Great as the danger is that some ambitious individual may gain the presidential chair against the will of a large majority of the people, the subject presents itself in another point of view not less interesting. I mean the operation of our system to enable an ambitious President to perpetuate his power and to transmit it to his posterity.—*Ibid.*, page 147.

> Let us suppose that at some future period we shall have a President of forty years of age, of great talents, unbounded ambition, and an insatiable thirst of power. The period of eight years would elapse at about the period of life when ambition takes the firmest hold of the human mind. He would easily persuade himself that the public interests would suffer by his retiring from office. *The great facility of securing a re-election under our system* would be a temptation not to be resisted; and the *host of choice* spirits by whom he would be surrounded would certainly succeed in persuading him to bear the weight of government for another period and another and another to the end of his life. Suppose this President to have a son of talents and ambition like his own and of a suitable age to become his successor. The transmission of power from father to son would excite no unusual apprehension. His election would be a mere matter of form, and our Government would quietly sink into an hereditary monarchy; after which a Tiberius, Caligula, or Claudius might reign uncontrolled in America. These are not mere illusions, mere phantoms of the brain.

He then pictured the dangers which might have resulted if the House, in 1801, had chosen Burr instead of Jefferson. "He would

eagerly have seized upon the reins of government." With his great military talent, with the Treasury and Army at his back, "and his talents for intrigue, which have never been overrated and rarely equaled in any country, would he not have been able to secure a re-election, and another, and another, to the end of his life?" "And would he have dared to relinquish a power which he had held by force and fraud in spite of the will of a great majority of the people?" (*Ibid.*, pages 347, 348.)

Mr. Dickerson then took a prophetic view of the future:

Sir, the time may come when our country will be filled with an army of pensioners, always the friends of arbitrary power. The time will come when we shall have a numerous host of officers, civil and military, in every department of the Government, spread over our immense territory, looking up to the President as the source of power and emoluments. The time will come when luxury and extravagance will banish from our country every species of republican virtue; and the time will come, I fear, when this Senate will be no more than the shadow of what it was intended to be by those who framed our Constitution; when it will be no check upon the Executive; when it shall be as insignificant as the boasted senate of Rome in the time of Tiberius. The whole *patronage* of Government will center in the President, and that patronage, under our present system of choosing electors, will become *a machine* of irresistible power. The management of this power will become a matter of science. He will be deemed the greatest politician and the ablest minister who can, with a given portion of patronage, produce the greatest effect. The force of this power will be applied to effect the purposes of ambition, with as much economy and skill as water is applied to the wheel, or that of steam to the engine. It would be difficult to devise a plan better calculated to accelerate the approach of those deplorable events, or to promote the views of an ambitious President, than *the present system* of choosing electors.—*Annals*, Fifteenth Congress, second session, page 149.

James Barbour, of Virginia, opposed the amendment on the ground, as he expressed it, of "the gross inequality of its effects against the large and in favor of the smaller States," and its tendency to *nationalism*, "by abridging the power of the States." (*Ibid.*, page 151.)

Vote on engrossment and third reading—yeas 28, nays 11. (*Ibid.*, page 159.)

February 4, 1819, the proposed amendment passed the Senate by the necessary two-thirds—yeas 28, nays 10. (*Ibid.*, page 207.)

Reported to the House February 5. (*Ibid.*, page 1038.)

Laid on the table, February 26, by a vote of 79 yeas, 73 nays. (*Ibid.*, page 1420.)

Senator Dickerson submitted his amendment again at the next session, December 14, 1819. (Annals, Sixteenth Congress, first session, page 22.)

Referred to committee of five. (*Ibid.*, page 24.)

Reported back without amendment. (*Ibid.*, page 40.)

Vote on engrossment and third reading—yeas 27, nays 13. (*Ibid.*, page 233.)

Passed by the necessary two-thirds majority January 27, 1820—yeas 29, nays 13. (*Ibid.*, page 278.)

Reported to the House January 28. (*Ibid.*, page 991.)

Agreed to in Committee of the Whole, reported to the House, and ordered to lie on the table, March 28. (*Ibid.*, page 1691.)

James S. Smith, of North Carolina, moved that the House proceed to consider the resolution and argued at length in support of it. He insisted that under the district plan "the States would not be deprived of any just power. The federative principle is still preserved. By this plan you will bring the election near to the people, and, consequently, you will make them place more value on the elective franchise, which is all important in a republican form of government."

Mr. Smith's motion was rejected. (*Ibid.*, page 1912.)

Mr. Dickerson again submitted his proposed amendment at the next session, November 22, 1820. (Annals, Sixteenth Congress, second session, page 22.)

Referred to committee of five. (*Ibid.*, page 23.)

Mr. Smith, of North Carolina, in the House, November 20, 1820, submitted an amendment exactly in the words of the Dickerson resolution. Referred to the Committee of the Whole. (*Ibid.*, page 444.)

The vote in Committee of the Whole, December 5, 1820, on the engrossment and third reading was—yeas 103, nays 59. (*Ibid.*, page 504.)

January 25, 1821, the resolution being before the House on its final passage, Ezra C. Gross, of New York, spoke at length in its favor. He argued that the permanent interests of the Union demanded the adoption of the proposed amendment:

Other gentlemen thought they foresaw great evils. All their arguments [against the resolution] were directed to the same point and were of three kinds: those drawn from the sacred character of the instrument and the danger of rash amendments; those addressed to the pride and jealousy of States; and, lastly, those which result from an inquiry into the present practices of different States in choosing electors. (*Ibid.*, page 960.)

Noticing the objection that the proposed amendment would change the relative power of the large and small States, Mr. Gross remarked that he came from a great State, and continued:

What advantage will this kind of greatness be to her should jealousies be excited and discord prevail? It is a proposition that will not be controverted on this floor that the greatness of every State depends on the preservation and harmony of the Union. Why should we, under the pretense of preserving *State rights*, seek an unnatural advantage, the exercise of which can only serve to cherish faction, foment discord within, excite jealousy without, and jeopardize the best interests of the country? *It is enough that the Constitution guarantees to us the advantage of the superiority of numbers by giving us a proportionate superiority of votes.* It is a miserable ambition that seeks the temporary disfranchisement of a great minority of our fellow-citizens for the purpose of showing our power to a smaller member of the confederacy.

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Uniformity and permanency in the mode of appointing electors is of more consequence than the mode itself.—*Ibid.*, page 962.

Touching executive influence on elections he said:

In my opinion the amendment proposed will, instead of increasing the influence of the Executive, curtail it in a salutary manner. * * * It is not at the polls that this kind of influence is most to be dreaded. A whole community is not to be bribed.

In conclusion he said:

I feel bound to support the amendment as well on the broad principles of justice as to secure the constitutional independence of the States and the preservation of the Union.—*Ibid.*, pages 963, 964.

The vote on the passage of the resolution was—yeas 92, nays 54; two-thirds not voting in the affirmative. (*Ibid.*, page 967.)

Senator Dickerson renewed his proposition at the next session, December 19, 1821. (Annals, Seventeenth Congress, first session, page 33.

Referred to a committee of five, (Dickerson, Lloyd, Benton, Brown of Ohio, and Holmes of Maine,) January 24, 1822. (*Ibid.*, page 155.)

Ordered to third reading—yeas 27, nays 12. (*Ibid.*, page 281.)

Passed the Senate, March 11, 1822, by a decisive vote—yeas 29 nays 11. (*Ibid.*, page 283.)

Reported to the House on the same day. (*Ibid.*, page 1249.)

House declined to consider. (*Ibid.*, page 1250.)

Thomas H. Benton, Senator from Missouri, on the 11th of December, 1823, proposed the following:

That, for the purpose of electing a President and Vice-President of the United States, each State shall be divided by the Legislature thereof into a number of districts, equal to the whole number of Senators and Representatives to which such State may be entitled in the Congress; each district shall be composed of contiguous territory, and shall contain, as nearly as may be, an equal number of persons entitled by the Constitution to be represented, and on such days as Congress shall determine, which days shall be the same throughout the United States, the citizens of each State who may be qualified to vote for a Representative in Congress shall meet at such place within their respective districts as the Legislature of each State shall appoint; and each, in his proper person, shall vote for President and Vice-President, one of whom at least shall not be an inhabitant of the same State with himself; and separate, triplicate lists shall be kept of all the voters, and of all the votes given for each person as President, and for each as Vice-President.

All the votes so given in each district shall be collected forthwith, in such manner as the Legislature of the State may direct, at some one convenient place within the district; and the votes given for each candidate shall be added together, and the person having the greatest number of votes for President and the one having the greatest number of votes for Vice-President shall be certified as duly preferred in said district, and shall be entitled to one vote each for the respective offices for which they are candidates; but if two or more persons shall have an equal number of votes in such district election for the same office, then the returning officers shall decide between them and certify accordingly.

Triplicate certificates of the whole number of votes given for each candidate shall be made out and transmitted, in such manner as Congress may direct, to the seat of Government of the United States, addressed to the Senate. 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 for President shall be President, if such number be equal to a majority of the whole number of electoral votes within the United States; and if no person have such majority, then the President shall be chosen by the House of Representatives from the three having the greatest number of votes for President, in the manner now prescribed by the Constitution.

The person having the greatest number of votes for Vice-President shall be the Vice-President, if such number be equal to a majority of the whole number of electoral districts; and if no person have such majority, then the Vice-President shall be chosen by the Senate from the two persons having the greatest number of votes for that office, in the manner now prescribed by the Constitution.—*Annals*, Eighteenth Congress, first session, page 32.

Senator Dickerson, of New Jersey, on the 16th of December, 1823, renewed his amendment with the added provisions:

First. That when there is no choice by the electors *the two Houses by joint ballot* shall elect; a majority of members present being necessary to a choice on the first ballot, and a plurality after the first.

Second. That no person having been twice elected President shall again be eligible. (Annals, Eighteenth Congress, first session, page 43.)

All resolutions proposing amendments to the Constitution were referred to a select committee of five—(Benton, Hayne, Dickerson, Holmes of Maine, and Kelly.) (*Ibid.*, page 41.)

In the Senate, December 29, 1823, Martin Van Buren, of New York, offered an amendment providing for election by districts, equal in number to Senators and Representatives to which a State is entitled, to be formed by the State Legislatures. Citizens qualified to vote for members of the lower house of the State Legislature to chose one elector in each district; electors when met to fill vacancies; Congress to fix time of chosing electors and day for giving their votes, which shall be the same throughout the United States; State Legislatures to have *exclusive* authority to form districts, "to direct the election to be held, to prescribe the manner thereof, except as to time of holding the same and the qualifications of the voters and the place of meeting of the electors. If no person have a majority of electors chosen, the President, by proclamation, shall reconvene the electors, who shall ballot again for President, and if no choice is made the House of Representatives shall elect as now provided by the Constitution." (*Ibid.*, page 73.)

Mr. Benton, January 8, 1823, reported from the select committee an amendment similar to the Dickerson resolution of the previous session, except that the number of districts should be equal to the number of Senators and Representatives; that in case of no choice by electors, the two Houses of Congress, jointly, by ballot, shall elect from the three highest on the list; a *majority* of members present necessary to a choice *on first ballot*, and a *plurality* only afterward; the Senate to choose Vice-President when no choice is made by electors; that no person shall be again eligible after having been twice elected President. (*Ibid.*, page 101.)

On the 15th of January, Mr. Benton offered his amendment as a substitute for the above. Agreed to. (*Ibid.*, page 106.)

The resolution relating to the ineligibility of the President after his second term, having been separated from the other, was debated at length by Mr. Dickerson and others, and *passed*—yeas 36, nays 3. (*Ibid.*, page 160.)

February 3, 1823, the order of the day being the Benton resolution as a substitute for that reported by the select committee, Mr. Benton supported his amendment in a lengthy argument. He said that experience was the only infallible test of good or bad institutions; that time had shown the defects in our electoral system; and that the framers of the Constitution, "despising the arrogance of an overweening confidence in their own work," had "provided a remedy by providing the means of amendment." (*Ibid.*, page 167.)

After showing how, under the present system, electors had been chosen by districts, by legislative ballots, and by general ticket, he argued that "such deviations imply a great fault in the Constitution itself."

The evil of a want of uniformity in the choice of electors is not limited to its disfiguring effect upon the face of our government, but goes to endanger the rights of the people by permitting *sudden alterations on the eve of an election*, and to annihilate the right of the small States by enabling the larger ones to combine and to throw all their votes into the scale of a popular candidate. These obvious evils make it certain that any uniform rule would be preferable to the present state of things. But in fixing a rule it is the duty of statesmen to select that which is calculated to give to every portion of the Union its due share in the choice of a Chief Magistrate, and to every individual a fair opportunity of voting according to his will. This would be effected by adopting the *district system*. It would divide every State into districts equal to the whole number of votes to be given, and the people of each district would be governed *by its own majority*, and not by a majority existing in some remote part of the State. This would be agreeable to the rights of individuals; for, in entering into society and submitting to be bound by the decision of the majority, each individual retained the right of being governed by *a majority of the vicinage*, and not by majorities brought from remote sections to overwhelm him with their accumulated numbers.

It would be agreeable to the interests of all parts of the States, for each State may have different interests in different parts. One part may be agricultural, another manufacturing, another commercial; and it would be unjust that the strongest should govern or that two should combine and sacrifice a third.

The district system would be agreeable to the intention of our present Constitution, which, *in giving each elector a separate vote* instead of giving each State a consolidated vote, composed of all its electoral suffrages, clearly intended that *each mass of persons entitled to one elector should have the right of giving one vote according to their own sense of their own interests.*

The *general ticket system*, now existing in ten States, was the offspring of policy and not of any disposition to give fair play to the will of the people. It was adopted by the leading men of those States to enable them to consolidate the vote of the State. It would be easy to prove this by referring to facts of historical notoriety. It contributes to give power and consequence to leaders who manage the elections, but it is a departure from the intention of the Constitution, violates the rights of minorities, and is attended with many other evils. The intention of the Constitution is violated, because it was the intention of that instrument to give to *each mass of persons* entitled to one elector the power of giving that electoral vote to any candidate they preferred. The rights of minorities are violated, because a majority of one will carry the vote of the whole State.

* * * * * * *

In New York thirty-six electors are chosen; nineteen is a majority, and the candidate receiving this majority is fairly entitled to nineteen votes; but he counts in reality *thirty-six;* because the minority of seventeen are added to the majority. These seventeen votes belong to seventeen masses of people, of 40,000 souls each, in all 680,000 people, whose votes are seized upon, taken away, and presented to whom the majority pleases.—*Ibid.*, pages 169, 170.

Continuing, Mr. Benton said:

I would be unwilling to use a harsh epithet, but I consider this case as amounting to an impressment of civil rights, more dangerous to our liberties than the impressment of our bodies by British ships of war.

A further mischief of the general ticket system is, in segregating the States, drawing them up against one another, like hostile ships in battle. Out of this system has sprung the anti-social words of modern invention—"effective votes," "operative votes,"—as if the States were contending with Turks or Russians. This alienates the States from each other, and fills them with hostile feelings; and the President elected must become the President of the States which chose him, and look with coldness and resentment upon those which opposed him.—*Ibid.*, page 170.

After quoting from the Constitution the words "each *State* shall appoint, in such manner as the Legislature thereof may direct, a number of electors," &c., Mr. Benton argued that "State" and "Legislature" are not synonymous terms. The word "State" embraces *people, territory*, and *sovereignty*. "When the *State* is to do a thing the people are to do it. A legislative body is not competent to act, because it is not the State, but a department of it." Otherwise "there would be no *State* when the Legislature was not in session." "The question now to be decided turns upon the *appointing power of the State* and *the dictatorial power of the Legislature.*" He argued further that the word "appoint" in the clause above quoted is synonymous with "elect," and insisted that the Constitution empowered the Legislature to direct how or in what manner—as to the mode of conducting the election, taking the votes, certifying returns, &c.—*the people should* elect. A legislative body may direct the people how to go through the forms of an election; but a legislative body cannot *direct itself.* The word *direct* "implies an address to a third party and not to one's self." (*Ibid.*, page 172.)

Mr. Madison says "The people choose the electors." The Federalist says the same thing in twenty places. It describes the electors as "men chosen by the people" for the special purpose of choosing the President. It describes them as "a small number of persons selected by their fellow-citizens from the general mass." It says the Constitution has "referred the election of the President, in the first instance, to the immediate act of the American people, to be exerted in the choice of persons for the temporary and sole purpose of making the appointment." "All of which shows," said Mr. Benton, "that legislative bodies were not intended to choose electors, much less to erect themselves into electoral colleges."—*Ibid*, pages 172-173.

Mr. Benton then discussed the necessity of discontinuing the use of an intermediate body of electors:

Every reason which induced the convention to institute electors has failed. They are no longer of any use, and may be dangerous to the liberties of the people. They are not useful because they have no power over their own vote, and because the people can vote for President as easily as they can vote for an elector. * * * The elector may betray the liberties of the people by selling his vote. The operation is easy, because he votes by ballot; detection is impossible, because he does not sign his vote; the restraint is nothing but his own conscience, for *there is no legal punishment* for his breach of trust. * * * If an elector should defraud 40,000 people out of their vote, there is no remedy but to abuse him in the newspapers.

* * * * * * *

"Electors are nothing but agents in a case which requires no agent; and no prudent man would or ought to employ an agent to take care of his money, his property, or his liberty when he is equally capable to take care of them himself."

He argued further that this system "gives a false direction to the gratitude of the President elected. He feels himself *indebted to the electors*, and not to the people who gave their votes to the electors."—*Ibid.*, pages 178-179.

This joint resolution in proposing a direct vote of the people, Mr. Benton contended, embraced no new project:

It was presented and discussed in the Federal Convention of 1787, was twice put to the vote and supported by the States of Pennsylvania and Delaware. * * * I feel myself treading upon safe ground when I can say to the American people, "I am endeavoring to carry into effect the plan of Benjamin Franklin and the eminent statesmen whose names have just been read" [Jared Ingersoll, Gouverneur Morris, James Wilson, Robert Morris, and others.]—*Ibid.*, page 181.

He then argued that while the electoral colleges may be corrupted, the people at large cannot be. The corrupting influences of patronage, with all its temptations, "would become insignificant when scattered and dispersed among the millions of people which fill the Republic." (*Ibid.*, page 184.)

Mr. Benton closed his argument by insisting that the umpirage of the House of Representatives ought to be continued in cases where there is no choice by districts.

But the House have no power to *elect* a President. They have no elective faculty, no power of choice; they are limited to the humble occupation of one out of three, each of whom may be obnoxious to them. They are nothing but arbitrators, referred to as mutual friends to settle a question of mutual interest.—*Ibid.*, page 192.

After a long discussion, covering all the proposed amendments, the whole subject was indefinitely postponed, March 22, 1824—yeas 30, nays 13. (*Ibid.*, page 417.)

December 5, 1823, a select committee of seven was raised in the House to inquire into the expediency of recommending an amendment providing for a uniform mode of electing President and Vice-President; and, also, that the election shall, in no event, devolve on the House of Representatives. (*Ibid.*, page 801.)

December 22, the committee, through George McDuffie, of South Carolina, submitted an elaborate report in favor of the *district system*, accompanied with a proposed amendment to that effect. (*Ibid.*, pages 850 to 866.)

The McDuffie amendment proposed to divide the States into districts equal to the number of Representatives in Congress, each district to elect one elector, the electors when met to choose two additional electors. In case the electors make no choice, the Senate and House, by joint ballot, shall elect, the members voting individually and not by States.

Edward Livingston, of Louisiana, in the House, January 24, 1824, proposed an amendment providing for the choice of electors by districts. In case no choice be made, the electors shall be reconvened by the President, and shall choose from the two having the highest number of votes. (*Ibid.*, page 1179.)

On the 19th January, 1826, Mr. Benton made an elaborate report from the select committee of nine accompanied by a proposed amendment.

The select committee had carefully considered *all the plans* proposed at previous sessions of Congress, and the joint resolution accompanying their report was the one which seemed best calculated to insure uniformity, certainty, and safety in the choice of a Chief Magistrate.

The committee in their report insist that the intention of the Constitution has wholly failed in two leading features, namely, "*the institution of electors, and the ultimate election by States in the House of Representatives;*" and they propose:

First. That a uniform mode of election by districts shall be established.

Second. That the institution of electors shall be abolished, and the President and Vice-President hereafter elected by a direct vote of the people.

Third. That a second election, to be conducted in the same manner as the first, shall take place between the persons having the two highest numbers, for the same office, when no one has received a majority of the whole number of votes given.

For Mr. Benton's report in full see Senate Report No. 22, first session Nineteenth Congress.

Debated by Benton, Johnson of Kentucky, Macon, and Branch *for*, and by Dickerson and Van Buren against; the negative arguments being directed mainly against a second election by the people. (Congressional Debates, volume 2, part 1, pages 692-696.)

Mr. McDuffie, of South Carolina, in the House, December 9, 1825, moved that a select committee be appointed, with instructions to prepare and report an amendment providing for a uniform election *by districts*, and to prevent the election from devolving on the House. (*Ibid.*, page 797.)

Called up and debated February 15, 1826.

Mr. McDuffie argued that "the Constitution, by declaring that each State shall appoint electors in such manner as the Legislature may direct,' puts an unequivocal negative upon the idea of fixedness

and permanence, which essentially enter into the notion of constitutional regulation." (*Ibid.*, page 1367.)

He then combated the idea that the *district* system would tend to destroy *the sovereignty of the States*, or produce what is termed *consolidation*.

What do gentlemen mean by *consolidation?* That consolidation which is really dangerous to liberty, and which would destroy the federative character of our Government, is the concentration of power in the Government *here*. In this sense of the term I deprecate consolidation as much as any man, and the tendency of my proposition is to produce a result precisely the reverse of this. Instead of concentrating power in the hands of the Government here, *it diffuses the most important of all powers among the great body of the people, and fixes it there irrevocably.*

* * * * * * *

How can it be conceived that we impair the rights of a State by vesting the highest prerogative of sovereignty in the people of that State? Virginia, voting by districts, is Virginia still, divested of none of her attributes as a separate member of the confederacy.—*Ibid.*, pages 1374, 1375.

He contended that the tendency of the district system would be to restrain the power of the Executive.

There is no power more active, encroaching, and dangerous, operating as it does through the influence of its patronage, upon the hopes and fears of a large portion of the community. But, by rendering the President directly responsible to the people, we shall solve the great problem, never before fully realized, of uniting in the government of so extensive a country the elements of *liberty* and *power*.—*Ibid.*, page 1378.

In arguing in favor of dispensing with an intermediate body of electors, Mr. McDuffie said the people were as competent to vote for President as for middlemen. The present electoral system, "in a word, combines the disadvantages of both modes of election, and the advantage of neither," and in the ultimate choice by the House it gives the House "just sufficient latitude for all purposes of corruption, and not enough for any good end." (*Ibid.*, pages 1387, 1388.)

Mr. McDuffie concluded by arguing against an ultimate choice by the House, on the general ground that such an election is violative of the true principles of the mixed federal and popular system of government intended by the framers of the Constitution, and of the rights of the people. (*Ibid.*, pages 1388–1395.)

After a very lengthy discussion, a vote was taken on Mr. McDuffie's resolutions. First, the proposition to amend the Constitution by taking the election out of Congress was adopted—yeas 138, nays 52; second, for the *district* system the vote stood—yeas 90, nays 102. The first resolution was then referred to a select committee of twenty-four. (*Ibid.*, part 2, volume 2, pages 2004, 2005.)

Committee reported a disagreement. (*Ibid.*, page 2659.)

Mr. Benton again introduced his proposed amendment, December 9, 1833. (Congressional Debates, volume 10, part 1, page 20.)

Referred to a select committee. (*Ibid.*, part 2, page 1897.)

The committee reported June 11, 1834, the same amendment which accompanied Mr. Benton's report, made at the first session, Nineteenth Congress. Laid on the table. (*Ibid.*, pages 1954–1958.)

Called up at next session, January 15, 1835, by Mr. Benton. Briefly discussed and laid on the table. (*Ibid.*, volume 12, part 1, pages 216, 217.)

William Allen, of Ohio, proposed an amendment in the Senate December 14, 1837, *similar to the Benton resolution.* (Globe, second session Twenty-fifth Congress, page 25.)

Referred to select committee of nine, (Allen, Wright, Calhoun, Webster, Benton, Rives, Crittenden, and Clayton.) (*Ibid.*, page 63.)

Mr. Benton again submitted his amendment January 15, 1844, and supported the same by a speech in which he rehearsed the arguments made in his speech in 1824, and subsequent report. (Globe, first session Twenty-eighth Congress, pages 686, 687.)

Andrew Johnson, of Tennessee, in the House, on the 21st of February, 1851, proposed the *Benton amendment* so modified that when the election has been held by the people *a second time*, two or more persons having received "the greatest and an equal number of votes, the person having *the greatest number of votes* in the greatest number of States shall be President." The same rule as to Vice-President, except that when a second election of President is not necessary and there has been no choice of Vice-President the Senate shall choose a Vice-President from the two highest on the list. (Globe, first session Thirty-first Congress, page 627.)

Mr. Johnson again brought in his resolution February 2, 1852. Referred to the Committee on the Judiciary. (Globe, first session Thirty-second Congress, page 443.)

January 18, 1854, the House appointed a select committee of nine, to join such committe as the Senate may appoint, "to whom shall be referred such resolutions proposing to amend the Constitution in the mode of electing the President and Vice-President of the United States, with instructions to take that matter and *the subject generally* into consideration, and to report upon the same in such manner as to them may seem most expedient." (Globe, first session Thirty-third Congress, page 202.)

January 30, the Senate appointed a committee of five to meet the above House committee. (*Ibid.*, page 275.)

In the Senate, December 13, 1860, Andrew Johnson again submitted his proposed amendment. (Globe, second session Thirty-sixth Congress, page 82.)

December 18, Mr. Johnson called up his joint resolution and supported it in a speech of some length. He argued that the troubles then impending would have been averted if the presidential election of 1860 had been held in the manner provided in his amendment. (*Ibid.*, page 117.) A long debate followed, participated in by Benjamin, Baker, Hale, and others; but the discussion was shifted to a general view of the question of secession, and the power of the General Government to coerce the States. (*Ibid.*, pages 139–238.)

Rufus P. Spalding, of Ohio, in the House, February 1, 1869, introduced a joint resolution proposing an election by districts, "the time, place, and manner of holding the same to be prescribed by Congress." Referred to Committee on Revision of Laws. (Globe, Fortieth Congress, third session, page 768.)

Mr. Sumner, of Massachusetts, offered an amendment in the Senate, May 30, 1872, providing for the election of President by the *direct vote of the people in all the States and Territories.* Election to be held on the 1st Monday in April. A majority of the total vote necessary to a choice at first election. If the two Houses of Congress, in joint convention on third Monday in May, find that no candidate have such majority, *a second election* shall be held, when a plurality shall elect. Second election to take place on second Tuesday in October following.

In case of death or removal of President, the head of an Executive Department, senior in years, shall be the President. If Congress be in session at death or removal of President, the two Houses in joint session shall choose a President *viva voce*, each Senator and Representative having one vote; a quorum to consist of a majority of each House, and a majority present being necessary to a choice. If Congress be not in session, the acting President shall call extra session to elect President. The office of Vice-President to be abolished, and Senate to choose its own presiding officer. Presidency to be limited to a single term of four years. (Globe, Forty-second Congress, second session, page 4036.)

For Mr. Sumner's joint resolution in full, see Bills and Resolutions, Senate United States, 1872–'73, part 8, Senate resolution No. 7, second session, Forty-second Congress.

Again brought forward by Mr. Sumner at next session, January 16, 1873. (Globe, third session, Forty-second Congress, page 638.)

John Lynch of Maine, proposed amendment in the House January 6, 1873, for election by direct vote of the people, a majority of whole vote cast necessary to a choice. If no choice by popular vote, House to elect, voting by States. (Globe, third session, Forty-second Congress, page 353.)

Oliver P. Morton, of Indiana, submitted a resolution in the Senate January 6, 1873, directing the Committee on Privileges and Elections to inquire and report upon the best and most practicable mode of electing the President and Vice-President. (*Ibid.*, page 340.)

January 13 Mr. Morton called up and discussed his resolution at length. He said that, under article 2, section 1 of the Constitution—

The appointment of electors is placed absolutely and wholly with the Legislatures of the States. They may choose by the Legislature, or the Legislature may provide that they shall be elected by the people at large, or in districts as are members of Congress, which was the case formerly in many States; and it is no doubt competent for the Legislature to authorize the governor, or the supreme court of the State, or any other agent of its will, to appoint these electors.

He then argued that although there might be the most monstrous frauds and unfairness in the choice of electors, the will of the people being entirely subverted, there is no provision of law in any State for settling a contest arising out of such election. (*Ibid.*, page 662.)

He criticised the present system and said there was danger of revolution growing out of its defects; that if a President should be elected by the vote of a State, secured by fraudulent or unfair means, "he would in advance be shorn of moral power and authority in his office, and would be looked upon as a usurper, and the consequences that would result from such a state of things no man can predict."

He argued that the President of the Senate had exercised an uncertain and dangerous power, but combated the proposition that the framers of the Constitution intended that he should perform other than merely ministerial functions in opening certificates at the joint meeting of the two Houses. But he insisted that the exercise of judicial and discretionary powers *may* devolve upon him *ex necessitate rei*, and if he decides corruptly or in violation of the law his decision is final, and there is no remedy provided in the Constitution. (*Ibid.*, page 663.)

He declared that "the idea of interposing an electoral body between the Chief Magistracy and the people had come down from ancient times, and had its origin in aristocratic forms of government where the nobility elected the sovereign or chief magistrate." He believed the electoral system was born of distrust in the people, as the federal convention seemed to think it unsafe to lodge such a power in their hands. He argued that the electoral system has completely failed. "The electoral colleges," he continued, "have turned out to be wholly useless. Every reason given for their original establishment has absolutely failed in practice." (*Ibid.*, page 664.)

He preferred, he said, "that the President should be elected by the people *as one community*, giving the election to the man who received the highest number of votes, without regard to State lines or municipal divisions."

He was opposed to the present system because "the dangers of *sectionalism*" are greatly increased by it. "Under the present apportionment the electoral votes of ten States out of thirty-seven may elect a President."

But I submit to the inevitable, and assume that the *smaller States* will not consent to an amendment by which the President would be elected by the people of the United States as one community. Yet I believe they can have no objection to such a change as will bring the election of the President directly to the people of the several States, each State to be divided into as many *districts* as it has Senators and Representatives, each *district* to have one vote in the election of President and

Vice-President, and the vote of that district to be counted in favor of the candidates for President and Vice-President who receive the largest number of votes in it.—*Ibid.*, page 665.

He argued further that the district system would give due weight to the smaller States, and that under the present system the *sovereignty* of great States has been strengthened at the expense of the small ones. (*Ibid.*, 665.)

Mr. Morton, in the course of his speech, adopted the same line of argument in favor of the district system pursued by Benton, Dickerson, and others. (*Ibid.*, 664, 665.)

Mr. Sumner again submitted his joint resolution at the first session Forty-third Congress. (Record, first session Forty-third Congress, page 2.)

Senator Wright, of Iowa, proposed an amendment December 15, 1874, providing for election by the direct vote of the whole people, a majority electing. If no one have a majority a second election to be held and votes cast for the two highest on the list only. Returns to be certified to the Chief Justice of the Supreme Court of the United States, and that court to determine all questions relating to validity of returns, &c. Ineligibility after *one* term of six years. (*Ibid.*, second session Forty-third Congress, page 81.)

Senator Morton reported from the Committee on Privileges and Elections, January 20, 1875, a joint resolution proposing an amendment providing for election by direct vote in *districts*. (Senate Report No. 16, second session Forty-third Congress; Record, second session Forty-third Congress, page 608.)

See, also, report of same committee submitting arguments in favor of district system. (Senate Report No. 395, first session Forty-third Congress.)

The joint resolution discussed at length by Morton, THURMAN, and CONKLING. (*Ibid.*, pages 626 to 634, and 649 to 652.)

Senator Morton again submitted his amendment at the next session, December 5, 1876. (Record, second session Forty-fourth Congress, page 17.)

Discussed by Senators Morton and EDMUNDS. (*Ibid.*, 123 to 127.)

I move the reference of the joint resolution to the Select Committee to take into consideration the state of the law respecting the ascertaining and declaration of the Result of the Elections of President and Vice-President of the United States.

The motion was agreed to.

UNIVERSITY LANDS TO TERRITORIES.

Mr. McDONALD submitted the following report:

The undersigned conferees on the part of the Senate of the United States and on the part of the House of Representatives with regard to the disagreeing votes of the two Houses on Senate amendments to the bill (H. R. No. 1327) entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming, for university purposes," have conferred in respect to said disagreeing votes, and have agreed and recommend that the House do agree to said amendments to said bill, and each of them, and that upon such agreement said bill do pass.

J. E. McDONALD,
J. D. WALKER,
Senate Committee.
GEO. L. CONVERSE,
P. DUNN,
House Committee.

The report was concurred in.

POST-OFFICE APPROPRIATION BILL.

The PRESIDING OFFICER, (Mr. CAMERON, of Wisconsin, in the chair.) The Senate, as in Committee of the Whole, resumes the consideration of the bill (H. R. No. 6972) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1882, and for other purposes; and the question pending is on an appeal from the decision of the Chair on the question of order as to whether the amendment of the Senator from Alabama [Mr. PUGH] is in order. The amendment will be read.

The CHIEF CLERK. It is proposed, at the end of section 1, to add:

For additional postal service to foreign countries, $1,000,000, to be expended under the direction of the Postmaster-General, in the establishment of mail steamship lines, equitably distributed among the Atlantic, Mexican-Gulf, and Pacific ports: *Provided*, That the vessels employed for such service shall be owned and manned by American citizens, and that said vessels thus employed shall be iron steamships, accepted by the Secretary of the Navy, after due inspection, as in all respects seaworthy and properly fitted for such service.

Mr. WALLACE. I believe the pending question is upon the point of order made by myself, that the amendment reported by the Senator from Texas, [Mr. MAXEY,] the chairman of the Committee on Post-Offices and Post-Roads, was legislation, and therefore not in order. The Chair decided that point of order well taken, and an appeal was taken therefrom to the Senate. I believe that is the situation of the question.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. MORGAN. Mr. President, the amendment proposed is so very important, and it being one that should be properly matured in the Senate, I venture to submit a few observations on the question of order. The decision of the Chair yesterday was that the proposed amendment was not out of order because it increased the amount of the appropriation, and in that decision the Senate acquiesced. Then the question was raised whether the amendment was out of order under Rule 29, because it proposed general legislation.

If you can find in the statute-books general legislation covering the whole ground of this amendment, which needs only to be further regulated for the purpose of disposing properly of this appropriation of a million dollars, which is in order, then the objection raised to this proposition being in order must fall to the ground.

The Senate is considering an amendment to the bill brought in by the Committee on Post-Offices and Post-Roads, proposing to appropriate $1,000,000 for the purposes of enabling the Postmaster-General to make contracts for the transportation of the mails to foreign countries and from foreign countries to this country, in lieu of the system which has been heretofore adopted by statute and which is now in force, of giving to the persons who transmit the mails the postage-money instead of mail pay in the ordinary acceptance of the term. I do not see, after it has been determined by the Senate that this proposed amendment so far far as the appropriation is concerned is in order, how it can possibly be held that the Senate shall have no power to dispose of that appropriation in such a way as to make it more valuable or more available for the purposes of mail intercommunication between this and foreign countries. Whatever shall be added now to this million dollars in the nature of a provision for the regulation of its expenditure or its employment must be germane to the subject of its expenditure; and unless it create a necessity entirely new, to the breaking down of some established and existing system for the regulation of mail intercommunication between this and foreign countries, I cannot understand how the proposed amendment is amenable to the objection which has been raised against it. Rule 29 provides that—

No amendment which proposes general legislation shall be received to any general appropriation bill.

The object of that rule was not to cramp either House of Congress when it had the right to make an amendment to an appropriation bill so as to prevent either House from giving proper direction to that appropriation; but it was intended to prevent the introduction of new and substantive matters of legislation either not germane to the subject in hand or such matters of legislation as were entirely new and of a general or universal character.

The object of the rule found in the Manual was to prevent opportunity being afforded to any Senator or to any member of the House (to any Senator is as far as we need to discuss the subject here) of compelling the Senate to adopt some new provision of general law by fastening that provision upon an appropriation bill and threatening to stop the Department of the Government for which we were providing unless that general law should be adopted. That was the purpose intended to be prevented by the adoption of this rule; and when we look at the real reason of the rule we understand, I think, that a proposition which merely relates to the regulation of the manner of the expenditure of an appropriation that is held to be in order cannot be such general legislation as violates that rule in letter or in principle.

Upon turning to the Statutes of the United States on this subject I find that every provision contained in the amendment offered by the committee has been substantially made. Every provision of general law in reference to the transportation of mails to foreign countries is found substantially in the existing legislation upon that subject; but of course the special stipulations of this amendment and the special provisions in reference to the use of this $1,000,000 are not found in any law; but the convenient use, the just application of this amount of money which we are now asked to appropriate for the purpose of paying for the transmission of mails across the ocean is a subject properly within the power of the Senate to regulate upon a general appropriation bill. It is not necessary that we should go before a committee and have a separate bill passed authorizing us to establish foreign mails, because under existing laws the Postmaster-General has the power to establish foreign mails; or to fix rates of postage, because under the laws he has the power to fix rates of postage; or to declare that the mails shall be carried in steamships, for under the existing law he has the power to declare that the mails shall be carried in steamships. Every substantial provision in this amendment except the mere regulation of the method of its execution is found in the existing statutes. I will now call the attention of the Senate to some of these laws.

SEC. 4007. The Postmaster-General may, after advertising for proposals, enter into contracts for the transportation of the mail between the United States and any foreign country whenever the public interests will thereby be promoted.

There is a general law which makes the whole bosom of the ocean a mail-route, and leaves it to the Postmaster-General to select what ports of the United States the mails shall leave, and at what ports abroad they shall arrive. It is left entirely to his own discretionary declaration to designate those mail-routes which are established under this act as being common to all the ports of our country and all the ports of a foreign country, the ocean being the great way upon which the mails are to be transmitted.

I submit that if the Congress of the United States were to engage itself for a month in providing mail-routes across the ocean, it would not after all have made a system as full and as broad and as comprehensive as that which is contained in section 4007, for Congress in specifying the mail-routes would merely limit the number, whereas section 4007 places no limit on the number of routes or the ports to or from which the routes shall be established, but lays every port open to the access of the mails from abroad, and enables the Post-

master-General to send steamships out of any port of the United States to any port abroad.

Certainly, therefore, in the matter of the establishment of post-routes there is no new general legislation in the amendment; but the amendment falls within and is intended to complete and effectuate a provision of law which is now upon the statute-book. It does not undertake to create a new system or to create new mail-routes.

SEC. 4008. The mail between the United States and any foreign port, or between ports of the United States touching at a foreign port, shall be transported in steamships; but the Postmaster-General may have such transportation performed by sailing-vessels when the service can be facilitated thereby.

The amendment provides that the mail shall be transported in iron steamships. Neither do the two sections that I have read nor any other sections confine the Postmaster-General to a specific manner of carrying mails abroad, but the amendment provides an additional means of carrying them abroad, which is that he shall designate the ports from which these lines are to be established, as he has the right now to do, and the mails shall be carried in iron steamships.

SEC. 4009. For transporting the mail between the United States and any foreign port, or between ports of the United States touching at a foreign port, the Postmaster-General may allow as compensation, if by a United States steamship, any sum not exceeding the sea and United States inland postage; and if by a foreign steamship or by a sailing-vessel, any sum not exceeding the sea-postage, on the mail so transported.

The amendment provides simply that you may add to that, and appropriates $1,000,000, so that the Postmaster-General, instead of paying in postages under the discriminating rule as between American and foreign ships, may pay in money out of the Treasury of the United States, precisely as we pay a contractor who carries the mail over a railway or on a star route. It is the addition of $1,000,000 to the fund from which is to be drawn the support of our foreign mail intercommunication, and that is all that can be said of it.

The next section relates to the power of the Postmaster-General in imposing fines:

4010. The Postmaster-General may impose fines on contractors for transporting the mail between the United States and any foreign country for any unreasonable or unnecessary delay in the departure of such mail or the performance of the trip; but the fine for any one default shall not exceed one-half of the contract price for the trip.

"The contract price for the trip," says the statute. What is the contract price for the trip? Under the existing system you cannot exceed the amount of postage, to which I have just called the attention of the Senate; but under the amendment proposed the payment may exceed the amount of the postage, and money may be appropriated out of the Treasury of the United States for the purpose of adding to the contract price and thereby facilitating the carrying of the mails abroad; and as to the power of imposing fines placed in the hands of the Postmaster-General it would be just as applicable after we had passed this amendment as it is applicable to the present system of the transportation of the mails.

SEC. 4011. Every contract for transporting the mail between the United States and any foreign country shall contain, besides the usual stipulation for the right of the Postmaster-General to discontinue the same, the further stipulation that it may be terminated by Congress.

Congress maintains the power under existing laws to revoke the contract as well as to give the power to the Postmaster-General of the discontinuance of a route under which by contract the party who transported the mails is entitled to a certain remuneration. The next section provides for the transportation of mails through the United States. Here is a section in reference to offenses against foreign mails *in transitu:*

SEC. 4013. Every foreign mail shall, while being transported across the territory of the United States under the provisions of the preceding section, be deemed and taken to be a mail of the United States, so far as to make any violation thereof, or depredation thereon, or offense in respect thereto, or any part thereof, an offense of the same grade, and punishable in the same manner and to the same extent as though the mail was the mail of the United States.

It then provides for indictment for such offenses. The Statutes then provide as follows:

SEC. 4014. The Postmaster-General or the Secretary of State is hereby authorized to empower the consuls of the United States to pay the foreign postage on such letters destined for the United States as may be detained at the ports of foreign countries for the non-payment of postage, which postage shall be by the consul marked as paid by him, and the amount thereof shall be collected in the United States as other postage, on the delivery of the letters, and repaid to said consul, or credited on his account at the State Department.

SEC. 4015. The Postmaster-General, under the direction of the President of the United States, is hereby authorized and empowered to charge upon, and collect from, all letters and other mailable matter carried to or from any port of the United States, in any foreign packet-ship or other vessel, the same rate or rates of charge for American postage which the government to which such foreign packet or other vessel belongs imposes upon letters and other mailable matter conveyed to or from such foreign country in American packets or other vessels as the postage of such government, and at any time revoke the same; and all custom-house officers and other United States agents designated or appointed for that purpose shall enforce or carry into effect the foregoing provision, and aid or assist in the collection of such postage, and to that end it shall be lawful for such officers and agents, on suspicion of fraud, to open and examine, in the presence of two or more respectable persons, being citizens of the United States, any package or packages supposed to contain mailable matter found on board such packets or other vessels or elsewhere, and to prevent, if necessary, such packets or other vessels from entering, breaking bulk, or making clearance until such letters or other mailable matter are duly delivered into the United States post-office.

SEC. 4016. All letters or other mailable matter conveyed to or from any part of the United States by any foreign vessel, except such sealed letters, relating to such vessel, or any part of the cargo thereof, as may be directed to the owners or consignees of the vessel, shall be subject to postage charge, whether addressed to any person in the United States or elsewhere, provided they are conveyed by the packet or other ship of a foreign country imposing postage on letters or mailable matter conveyed to or from such country by any vessel of the United States.

Then it goes on to make a further proviso in that declaration. I have read these provisions of the statutes for the purpose of showing that we have now a thoroughly organized system of mail intercommunication with foreign countries, to show that there is no single track that a ship's keel can make upon the bosom of the ocean that will be restricted under the law of the United States if it is sailing from any port of the United States to any foreign port carrying the mails under a contract with this Government.

Mr. BAYARD. May I ask the Senator from Alabama a question? Suppose the words were interpolated in the amendment now before the Senate, "according to the provisions of existing law," does the Senator believe that the amendment would be operative?

Mr. MORGAN. I do not, because the existing law requires——

Mr. BAYARD. Is not that the crucial test of the order or disorder of the amendment in question? If it requires a change or modification of existing law to make effective the amendment which is now proposed, then the amendment is out of order. If, on the contrary, the amendment be in accordance with existing law it probably may be considered in order. I submit to my honorable friend from Alabama that if those words were interpolated they would destroy the object and effective action of the amendment, and yet if they are not in, either to be read between the lines or to be read there openly, the amendment I think will be in violation of the rule.

Mr. MORGAN. It is almost impossible to pass any appropriation bill that does not contain some change upon some existing system. If we were compelled to adhere upon appropriation bills entirely and rigidly and closely to the existing state of the law, without modification or amendment, nothing would be left open to us but to adopt for each succeeding year the appropriation bills of the preceding year. There is not an appropriation bill that has ever passed through this body that does not contain some material modifications of existing laws. But few appropriation bills have been passed through this body which did not contain new systems of legislation grafted upon them, either such as are foreign to the subject-matter of the bill or such as are relevant to the subject-matter of the bill. It perhaps would be proper upon a bill of this kind to introduce a provision "that all laws authorizing mail intercommunication with foreign countries are hereby repealed." I say possibly so, because then we should be abrogating a system by a repealing clause in this act. It would be better, wiser, and safer that such a measure should be considered in the committee selected by the Senate to take particular charge of that business, and it is only that we are providing for ourselves rules of safety in the administration of public affairs that we have resorted to this operation of adopting such a rule at all. But when you admit the system in all of its broad and full force and power, and when you preserve in that system every feature of it entirely intact, and in making an appropriation for the support of it, in addition to appropriations under existing laws you find it necessary to make some addition to, amendment of, or modification of the system, it cannot be said that we are altering the law or changing the law in that material sense which makes it new or general legislation.

The question being raised as to the admissibility of this amendment under the rule which I have quoted, I confine my remarks at the present moment to that view of the case. I will read section 3971.

Mr. WILLIAMS. Will the Senator from Alabama allow me a moment?

Mr. MORGAN. Yes, sir.

Mr. WILLIAMS. As I understand the sections of the Revised Statutes which the Senator has read, they in substance and in effect do really establish a postal line between the ports of this country and every foreign port at which we have a consul.

Mr. MORGAN. Yes, the laws of the United States authorize the Postmaster-General to have the mails carried in steamships or sailing vessels, according to his discretion, and authorize him to fix the rates of postage and make ample provision for the protection of the mail on board ships.

The laws of the United States not only protect a United States mail on board foreign ships when sailing to a foreign port, but protect that mail by legal penalties against any invasion or violation. So if any person on board the ship shall violate the mail, shall trespass upon the mail in any regard whatever, the courts of the United States have jurisdiction to punish the offense. Our system is already so far complete and perfect in this regard that we have left nothing open about it except the amount of money that we will appropriate and the manner in which we shall carry the mail. Would any Senator doubt that we have the right to use the ships of the United States Government, the naval ships that are not in commission, in the transportation of the mail if we see proper to order them to carry the mail? Yet that would be quite a change in the system; it might be regarded as an innovation; but surely we have a right to order our men-of-war to carry our mails to the port of New York, to the port of Liverpool, or elsewhere; and we have a right to do it under an appropriation bill. We have a right to save expenses, as well as the power to increase expenses.

The amendment now presented to the Senate is an arrangement for the transportation of the mails under a system already established.

It does not violate the principle of the system; it does not repeal any essential feature of it, and only adds to the efficiency of the system by providing new means of conveyance and a different mode of transportation.

Let me read further from the Revised Statutes:

SEC. 3971. The Postmaster-General may enter into contracts for extending the line of posts to supply mails to post-offices not on any established route, and, as a compensation for carrying the mail under such contracts, may allow not exceeding two-thirds of the salary paid to the postmaster at such special offices.

SEC. 3975. The Postmaster-General may, when he deems it advisable, contract for the transportation of the mails to and from any post-office; but where such service is performed over a route not established by law, he shall report the same to Congress at its meeting next thereafter, and such service shall cease at the end of the next session of Congress, unless such route is established a post-route by Congress.

Here we give to the Postmaster-General the right in a general way to establish post-routes where they do not exist, and upon which he may arrange mail service, and fix by contract or otherwise the amount of payment for the mail service, leaving it to be repealed by the succeeding Congress, or leaving it to fall if the succeeding Congress may not see proper to adopt his action in that particular.

These provisions of the statutes simply show that the Government of the United States in establishing mails, whether upon the high seas or upon the land, has given to its executive officer charged with that duty broad discretionary power, and has not undertaken to confine that discretion to routes that are already established by law.

I must confess that I have looked carefully, and so far in vain, to find what law would be repealed by this proposed amendment to this bill, or what law would be altered, except as to the method of making these contracts and paying for the transportation of the mails and the manner of their transportation. We have adopted postal cars; we have authorized the Postmaster-General to require special cars to be built expressly for the purpose of carrying the mails across this continent in one direction and another. Because we have done that, nobody, I believe, has ever complained that that was repealing any existing law, or that it was an invasion of an established system; nor can it be held that this amendment is a repeal of any existing law or the establishment of a new system. As I have remarked before, it is merely an arrangement or amendment of that system so as to make it more advantageous for the public.

Mr. JONES, of Florida. Mr. President, I desire to offer a few observations to the Senate in regard to the proposition now pending in order to show my views upon the subject. I cannot conceive how this amendment violates the rule of the Senate to which reference has been made, which provides that—

No amendment which proposes general legislation shall be received to any general appropriation bill.

There is some legislation so intimately connected with appropriations of money that it is impossible to separate them. There is legislation which does not require, in order to give it effect, any appropriation of public money. I will take the case of public buildings as an example. No one now would pretend to say that if this were the sundry civil appropriation bill instead of the Post-Office appropriation bill, and a Senator came here who had failed to persuade the committee, of which I happen to be chairman, to pass favorably upon a bill for the erection of a public building in any of the States of the Union, and offered a proposition to put the provisions of such a bill on the sundry civil bill, it would be out of order on that bill. It has never been so held, and the practice of Congress supports me in that statement. It will be found on referring to the past that numerous instances have occurred where provisions were made for the erection of public buildings on sundry civil appropriation bills, and appropriations were made to erect them.

So with regard to the Navy. Suppose we had the naval appropriation bill here, and it was thought necessary to authorize the head of that Department of the Government to build some additional ships of war different in model, style, and class from those which were recognized before, and some Senator who had at heart the interests of this country, wishing to build up this much-neglected arm of the public service, came forward with an amendment providing that the Secretary of the Navy should have placed at his disposal $1,000,000 to put the American Navy on a respectable footing, and going beyond the mere matter of appropriation, if the mover of such an amendment thought proper to designate with precision the class of ships that were to be built, would any Senator say that such an amendment would be in violation of the rule of the Senate? I think not.

Is this proposition, then, different from those that have been suggested? It is not; because the very essence of the thing is an appropriation of public money. The essence of this amendment is an appropriation. Without it you can do nothing. There is, as was stated awhile ago, some legislation that may be enacted and that may stand independent of appropriations, touching general laws; and that kind of legislation I imagine this rule was intended to prevent being incorporated into appropriation bills; but when the main object sought to be accomplished is the appropriation of public money, everything incidental to it follows the main question and is controlled by it.

To test this question, how would we proceed if we were to conform to the views entertained by the gentlemen who oppose this amendment? What course would they point out to us for accomplishing this object, if it were the sense of this body that it ought to be perfected? Would they say that it is necessary to pass an independent bill, authorizing the Postmaster-General to establish lines of mail communication between the United States and all the countries of Europe, and, after that is enacted, then to come in here with another distinct proposition to be incorporated into an appropriation bill to carry that out? The other proposition amounts to nothing by itself. You might pass fifty laws here empowering the Postmaster-General to establish lines of communication between the United States and Europe, but what would they amount to by themselves? That does not hold true, however, with respect to another description of laws which would be capable of operation and force independent of any appropriation of public money; but in this particular case the very necessities of it require that you shall couple an appropriation with the authority proposed to be given; and in a case of that kind nothing, it seems to me, is clearer than that the appropriation must control the incidents that follow it, and that they are proper to be ingrafted into an appropriation bill.

Mr. BECK. Mr. President, confessing very little accurate knowledge of the rules, I have supposed there was a certain test of the fact whether an amendment to one of the general appropriation bills was in order or not. The Committee on Post-Offices and Post-Roads of course have a clear right to consider any matter connected with the postal service and tender an independent bill for the passage of the measure they recommend. No one disputes that. They give it consideration; they state all the facts; they report it favorably to the Senate; they place it upon the Calendar and there it takes its chances. But they have another right, and that is, if they believe that it is a proper thing to do, and that an appropriation ought to be made for it, they can refer it to the Committee on Appropriations for its consideration, and after that committee have had an opportunity to act upon it one way or the other, it is in order to test the sense of the Senate relative to the measure that has been so submitted as an amendment to the proper appropriation bill.

In this particular case the Committee on Post-Offices and Post-Roads did not venture to present this as an independent measure to test the sense of the Senate upon it, as they had a right to do, and they did not venture to send it to the Committee on Appropriations while the Committee on Appropriations had charge of the bill to which they now seek to attach it as an amendment. If they had seen fit so to do, as they had a perfect right to do, then the Committee on Appropriations would have had a right to call upon the head of the Post-Office Department to know whether he desired this to be done. When this question was up before, in another form, the former Postmaster-General, Judge Key, was called upon, and he distinctly answered that it was not necessary and he could not recommend it as a postal measure; and the record that was read here two years ago, when the question was up in another form, contained a letter of that Postmaster-General saying that he was getting all the postal service he wanted done for less than 10 per cent. of the amount now sought to be given him, and that it was not a postal measure, but a commercial measure.

Mr. FERRY. If the Senator will allow me, I think that proposition applied to the case of Brazil.

Mr. BECK. I think it did in great part, and I think this does when you sift it down and get clear of the circumlocution about it.

Mr. FERRY. The Senator referred to the fact that the former Postmaster-General had expressed a certain opinion. That referred to the case of Brazil; and he stated that it was more of a commercial interest than a post-route. The proposition was to pay $100,000, I think, to concur with the Government of Brazil in appropriating $100,000 to a line established between this country and Rio Janeiro.

Mr. BECK. Will the Senator from Michigan tell us what line of American-built steamships, manned and officered by Americans, we now have to which this appropriation can apply that crosses the Atlantic Ocean to any of the great countries of Europe? I should be glad to hear.

Mr. FERRY. If the Senator asks for a reply, I will state that this is simply an appropriation left to the discretion of the Postmaster-General to apply to the improvement of the postal service upon the high seas to foreign countries anywhere.

Mr. BECK. But at the same time it requires that the mails shall be carried in American-built ships, manned and officered by American officers and sailors. Does not the Senator from Michigan know that there is not a single line that meets that requirement which crosses the Atlantic Ocean to any of the great countries of Europe, and that this is in fact as much a Brazilian subsidy as if it had been so called?

Mr. FERRY. I reply to the Senator in this wise: That simply applies to the form or the application of the service, no more and no less than it would be if it was proposed to compel the Postmaster-General to have the mails carried in postal cars rather than in baggage cars.

Mr. BECK. But is not the mail to be carried, by the very limitation of the amendment, over a route to Brazil which alone can meet the requirements of the proposition now made? Is there a single line anywhere, going to England, to France, to Germany, to the Mediterranean, to any of the great countries where our productions are going, that can by possibility apply?

Mr. FERRY. That is stating just what I stated before, that it is simply placing a sum of money in the hands of the Postmaster-General to be used in his discretion for the interests of the postal service between this country and foreign nations. The mere fact of confin-

ing it to iron ships does not affect the question of order. The amendment does not specify the size of the steamships, but says that they shall be owned in America and manned by American citizens. That is simply carrying out a form of application for the benefit and best interests of this Government. If the Senator contends that this is general legislation, merely providing how the mails shall be carried, then confining the carrying of the mails upon land in postal cars is as much general legislation as this would be.

Mr. BECK. I think the failure of the Senator from Michigan (who is so well posted upon all these matters) to answer the question that I put to him is a substantial confession that while the amendment is supposed to be in the form in which it is now placed more acceptable to the American people than if it had been called a subsidy given to a single gentleman for carrying the mails to Brazil, it is in fact that and nothing more, for there are no other American ships that meet the requirements of the law except those upon that single line; and instead of limiting, as was done in the bill that was defeated before, the discretion of the Postmaster-General to a given sum, it authorizes the Postmaster-General with this million of dollars to give whatever he thinks fit, because there can be no competition, and whatever is demanded must be given, and only one man can make the demand, and he is obliged to be the lowest bidder.

Mr. FERRY. If the Senator will allow me, he must have misapprehended the amendment if he supposes that it is confined to American ships. It only provides that they shall be manned and owned by American citizens.

Mr. BECK. And no American citizen has any right to own, and the navigation laws prohibit him from owning, anything but an American-built ship; and if this is to begin now there can be no ship built in America within eighteen months or two years from this time to carry any of the mails that this purports to provide for.

When the question comes up, after the point of order is passed on, I may have something to say on that subject; but I desire to say now that if the Committee on Post-Offices and Post-Roads desire to make this a proper amendment to a bill laid before the Senate by the Committee on Appropriations under the rule, on every consideration of fair play the Committee on Appropriations ought to have had the right to have that bill before it, to have summoned the gentlemen of the Committee on Post-Offices and Post-Roads, if necessary, to present the papers on which they acted, to have summoned the Postmaster-General, to have summoned the men who are supposed to own these ships, to have gone into the whole question, and to have considered it. Instead of that this committee deliberately held back this measure for five days after the Committee on Appropriations had reported the Post-Office appropriation bill to the Senate, after the Committee on Appropriations were powerless to consider any question connected with the bill, to call any officer of the Government to bring any paper, to call upon the Senator from Michigan or the Senator from Texas, or the Senator from anywhere else to furnish us with the information upon which the Post-Office Committee were acting; and after they had thus avoided all possibility of an adverse report, which adverse report might have been fatal to this enterprise, they now seek to bring it in, holding it back until we could no longer expose whatever was wrong in it, could no longer develop the want of necessity for it, and had no power over it, and then they say they referred it to the Committee on Appropriations.

Mr. HAMLIN. Will the Senator allow me to make a single suggestion to him?

Mr. BECK. Certainly.

Mr. HAMLIN. The Senator is laboring under a great mistake if he supposes there was any intentional delay on the part of the Committee on Post-Offices and Post-Roads. The Senator from Texas, [Mr. MAXEY,] its able and honored chairman, was absent in his own State. The Senator from Tennessee [Mr. BAILEY] was also absent from these halls. The very day that they arrived here, the chairman called a meeting of that committee; and we sought to get the amendment before the Appropriations Committee before they reported the bill; but from the absence of the members of the committee and two of them a part of a subcommittee to whom the subject had been referred, it was an impossibility. I assure the Senator from Kentucky that there was no intention on the part of the Committee on Post-Offices and Post-Roads to delay the matter.

Mr. BECK. I am not dealing with the intention of gentlemen. I am speaking of the facts on record.

Mr. MAXEY. "Deliberately withheld," I think was the charge.

Mr. BECK. They withheld it. It did not come before the Committee on Appropriations till days after the bill was reported. I presume that everything is done with deliberation in this body. We had this Post-Office appropriation bill before us in the Committee on Appropriations, and we had every officer of the Post-Office Department before the subcommittee of which I was a member and the Senator from Pennsylvania chairman. We kept it for days and consulted upon every question; we then laid it before the full committee; we held it there; we inquired whether there was to be any proposition of subsidy before us, and we had subsidy men on that committee and no man said that any such intention existed.

Mr. MORGAN. I should like to ask the Senator from Kentucky if he has any reason to suppose that the Committee on Post-Offices and Post-Roads did not give to this subject as full and fair consideration as the Committee on Appropriations would have given to it?

Mr. BECK. Well, sir——

Mr. KIRKWOOD. Mr. President——

Mr. BECK. Wait a moment. I cannot answer everybody at once. I will answer one at a time. The Senator from Alabama asked me if I did not think the Committee on Post-Offices and Post-Roads gave it as fair consideration as the Committee on Appropriations could have given it if it were before them. I have no reason to believe that they did not; but if they intended to act on their own responsibility, then they ought to have presented the bill to the Senate which they had so carefully and so well considered, placed it upon the Calendar, and given the Senate the benefit of the consideration they had given it, and not seek to put it on this appropriation bill, because they had referred it to a committee that never had a chance to consider it. If it is to be in order without referring it to the Committee on Appropriations because of the full consideration given to it by the Committee on Post-Offices and Post-Roads, well; if it is to be in order because it was sent to the Committee on Appropriations, and is to be made part of their bill because it was so sent, then I deny that the Committee on Appropriations had any possible chance to consider it, to expose its defects, to make an adverse report upon it, and give it whatever effect that adverse report would have given it.

Mr. MORGAN. There is no rule of the Senate which requires that any bill shall be considered by two committees before it can be considered by this body. No such rule is found in all this code of rules for the government of this body. The consideration of one committee is all that is required.

Mr. BECK. Is that a speech or a question?

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The Senator from Kentucky declines to yield.

Mr. BECK. I do for a speech.

Mr. MORGAN. What I have said is a mere observation. These may be antagonistic committees, perhaps, and I notice that a row is raised every time any committee here is supposed to come in the slightest degree in collision with the Committee on Appropriations, of which the honorable Senator is a member, and I believe they are about to absorb all the powers of legislation of this body as I understand, if their claims be conceded.

The PRESIDING OFFICER. If the Senator from Kentucky declines to be interrupted, the Chair will protect him.

Mr. BECK. I would rather not be interrupted; and I wish to notice that last remark that we were seeking to monopolize all the powers of this Government and of the committees of this House——

Mr. MORGAN. I said the Committee on Appropriations were about to absorb them if the present claim were conceded.

Mr. BECK. Absorb!

Mr. MORGAN. Mr. President——

Mr. BECK. Let me go on if the Senator from Alabama will.

The PRESIDING OFFICER. The Senator from Kentucky is entitled to the floor.

Mr. MORGAN. Certainly.

Mr. BECK. Mr. President, if it is the rule of this body that anything can be brought before it that has been considered by one committee only, why is it necessary to have a rule of the Senate that it should be referred to the Committee on Appropriations before it can be made properly a part of their bill? That seems to be a rule requiring that it should be referred to them if it is to be made a part of a bill that that committee has under consideration. The consideration of a single committee, the Committee on Post-Offices and Post-Roads, will entitle a measure to be placed upon the Calendar and be considered in the Senate as a bill coming from that committee; but if it is to be made a part of an appropriation bill that comes from the Committee on Appropriations, then it has to be sent to that committee, and if so sent that committee ought to have a right to look at it, ought to have a chance to consider it, ought to have the facts before them, and ought to have a right to make an adverse report if they think an adverse report should be made. All these things were denied them in this case. If I said they were designedly denied, I did not mean that. The Senator from Maine and the Senator from Texas will understand me. I am not sure that I may not have used some expression which may be tortured into that; but my meaning was that it was held back after we had given ample opportunity by keeping the Post-Office bill in subcommittee for several days, by considering it in the full committee, by waiting fairly to give every person an opportunity who had anything to say.

As to the Committee on Appropriations absorbing all power, I have only to say that it is fortunate for this Government and for the Treasury of the United States, in my opinion, that there is some committee of this body and of the other House not connected with any Department of the Government. I never saw a matter come up relating to the national banks that the Comptroller of the Currency did not seek to make himself the champion of those whom he had to look after. I never saw anything relative to the Army come up that the Committee on Military Affairs did not seem to think it was an outrage on the part of the rest of the Senate if they did not do what that committee thought ought to be done with the great department they had charge of. The Committee on Naval Affairs seem to think they are the special guardians of the Navy, and that all the other members of the Senate are against it. The Committee on Post-Offices and Post-Roads seem to think that they must not only take charge of everything connected with the Post-Office Department, but they must

run the commerce of the country in the name of the Post-Office. And so it is, each one of the committees having charge of special affairs press those matters especially; and it is only when a measure comes before the Committee on Appropriations, that has to do with no Department of the Government, and has no special championship of any of them, and has nothing to do with any of them, and is not thrown in special contact with any of them, that the whole question is looked at with regard to the interests of the public. I am glad to see my friend from Massachusetts [Mr. DAWES] nodding acquiescence to that, for he and I stood side by side for six years and suffered under some of the things I am now speaking of at the other end of this Capitol.

So, when the Senator from Alabama comes to analyze the suggestion he has made, that we are absorbing everything, in my judgment he will find it is fortunate for the country that we are absorbing some of it. I have never heard this Committee on Appropriations here charged with extravagance. I have at the other end sometimes; but I think that all the action of this Committee on Appropriations shows that we are endeavoring to keep down the expenditures of the Government, and keep out of our necessary appropriation bills all legislation that is not germane to them. Here we are striving to keep out that what is foreign to the object of running the Post-Office Department. The question in regard to the great commercial relations of this country, whether with Brazil, with England, with France, or any other country, should be considered upon independent propositions, standing on their own merits, and not on bills which the rules require shall be merely to make appropriations in accordance with existing laws, and to carry out existing laws. That requirement is much better observed when outside issues and questions not provided for by law stand upon an independent footing, and when the Senate and House once pass them we never fail to appropriate money to carry them on. To have a matter of this kind put on a bill like this, when we have had no opportunity to consider it, which was laid before the Senate five days after the bill had passed from us, thereby depriving the Senate of the benefit of the investigation of the Committee on Appropriations, does not, in my opinion, give the tax-payers of the country the chance they ought to have and would have if that committee had had a chance to consider the proposition.

I have endeavored to say nothing about the merits of this proposition. Perhaps I may be heard upon them when it does come up. I do not profess to know very much of the rules, but I have stated my judgment of the matter.

Mr. MAXEY. Mr. President, the Senator from Kentucky has seen proper, in what I conceive to be not the correct or true spirit, to arraign a committee of this body, composed of gentlemen in every possible sense his equal, of having deliberately withheld an important bill, intimating thereby that that committee by some covert process was attempting to foist on the country a proposition against the best interests of the country.

Mr. BECK. I explained that.

Mr. MAXEY. A statement of that kind should never be made unless it is sustained by facts. What are the facts in regard to it? The Senator from Maine [Mr. HAMLIN]—and I am thankful for it—very properly stated the reasons. I returned from Texas on last Saturday. I found pending in the Post-Office Committee a bill presented by the Senator from Alabama effecting the object of this amendment, and one by the colleague of the Senator from Kentucky, and perhaps two others. They had not been acted on for the reason given by the Senator from Maine. As soon as I returned on Saturday, the first thing I did was to call a special meeting of the Committee on Post-Offices and Post-Roads for the purpose of considering these measures. That committee met on Monday morning. Failing to complete the work on Monday morning, we obtained an order of the Senate authorizing us to sit during the session of the Senate on Monday for the purpose of completing the consideration of the subject. The work was completed on Monday evening, and on Monday evening the report of the committee was made, the 7th of February, and it was referred by the order of the Senate to the Committee on Appropriations.

The Senator from Kentucky assumes, notwithstanding the decision of the Senate to the contrary, that the Committee on Appropriations had no opportunity to examine it. I say that is not true. The committee had not only the opportunity by the record, but notice was given to the Senator in charge of the bill that this amendment had been referred to the Committee on Appropriations, and the Senate is presumed to act with some degree of judgment and common sense; and when they made the order referring the amendment to the Committee on Appropriations, notwithstanding that committee had made its report on the appropriation bill, it was evidence that the Senate still controlled that committee and directed that committee to examine that matter.

That was on the 7th instant. The bill was not called up here until the 10th, yesterday. Three days passed by, and during all that time this committee, through the Senator from Kentucky, complain that they had no opportunity to examine it. Sir, the record of the fact overrides the assertion of any man. They had three days to examine it, and yet the Senator sees proper to arraign the Committee on Post-Offices and Post-Roads, in every sense the equal of the Committee on Appropriations, because they were by some covert process attempting to take advantage of the Committee on Appropriations; and he arraigns every committee here, the Naval Committee, the Military Committee, and every other committee as intending to do that which is against the best interests of the country, leaving only the Committee on Appropriations as the true and sole defenders of this great country.

> Upon what meat doth this our Cæsar feed,
> That he is grown so great?

Mr. President, I give to every one on this floor credit, and do it sincerely, for doing his duty, his whole duty, and nothing but his duty to the country. I believe the Senator from Kentucky, from his standpoint, endeavors to do his duty; I endeavor to do mine; and so I give credit to all men here; but I deny the right of any man to arraign one Senator for appearing to be derelict in duty, or seeking by any process to obtain an advantage and run rough-shod into the Treasury to take out money not for the general good of the country.

Mr. President, there has been enough of that kind of thing. The Committee on Appropriations constantly endeavors from the lights before it to do its duty. I have never asserted otherwise. The Committee on Post-Offices and Post-Roads endeavors to do its duty, and so I believe every committee of this body endeavors to do its whole duty to the country; and so far as I am concerned, I hold myself responsible, not to the Senator from Kentucky, but to the people of the State which sent me here and to the people of this country for my acts, and they will compare with those, I think, of the Senator from Kentucky.

Sir, the Committee on Post-Offices and Post-Roads believed this measure was a wise one and in the best interest of the country. The Senator from Kentucky thinks otherwise. Am I to charge that because his judgment does not agree with mine, therefore he is endeavoring to build up the interest of some one man as against all others? I am proud that it is not in my heart to believe all men who disagree with me are acting in bad faith. I have learned where men can best learn that fact, that honest men may honestly differ. I give to those who differ with me on this proposition credit for as much sincerity as I have in the position I take. I believe that this measure is in the best interest of the country, and therefore I advocate it; and the Post-Office Committee, of which I have the honor to be chairman, by a large majority took that view of the question and so reported, and we are willing to test the sense of the Senate and go before the country on that. Whether the Senator from Kentucky be right or whether we be right, is a question to be settled after the measure is passed.

Mr. WALLACE. Mr. President, it seems to me idle to get into a dispute over a question that is not before the Senate or to lug in here extraneous matter. The question as to whether this amendment was properly referred to the Committee on Appropriations was made by myself as a point of order to the Chair last night; it was discussed; and the Chair ruled the point of order not well taken, and the Senate acquiesced. That question was disposed of. The Senator from Texas well stated that he called my notice to the proposition that he now submits. The Committee on Appropriations were not called together to discuss the subject because I supposed that the matter would come to the Senate and they would have full control of it all. That matter has really passed out of the committee and is on the record. The only question now for the Senate and the one that we ought to approach in the proper spirit it seems to me, and with the determination to have it settled upon what is the law and the proper interpretation of our rule simply is, is this general legislation upon an appropriation bill? That is the point of order that I made to the Senate last night in the performance of my duty in charge of this bill. I endeavored to set it on its feet for the consideration of the Senate. The Chair sustained me that the point of order was well taken, and the Senator from Texas took an appeal, and that appeal is now pending; and the simple question for the determination of the Senate is, not whether the Appropriations Committee is absorbing anything, but are these words "that the Postmaster-General shall have the right to establish mail-steamship lines" general legislation? That is the question. It is not a question as to whether there is to be transportation of foreign mails by routes now in existence; but the simple question for the Senate now to determine on this bill is, has the Postmaster-General under this clause the power to establish mail-steamship lines, and if so is not that general legislation? They do not exist now. Mail-steamship lines are to be established, which implies its creation of the steamship itself, the enactment of the route on which and the ports between which the steamship is to sail, everything that is necessary to the starting of the mail from our shores and to the reception of it in another country, to the vehicle that transports the mail and all that surrounds that question. These are questions of legislation all of which are involved in this single proposition.

Mr. HILL, of Georgia. Will the Senator allow me to ask him a question?

Mr. WALLACE. Certainly.

Mr. HILL, of Georgia. Does this direct the Postmaster-General or the contracting company to carry the mail in these steamship lines?

Mr. WALLACE. When there is no route established, when there is no power of law to authorize the hire of steamships, when there is no power of law to create steamships, this is entirely a new proposition; it is not giving simply a power he expend money for the transportation of the mail, but it is voting money for the establishment of mail-steamship lines. I answer in the words of the amendment.

Mr. HILL, of Georgia. I ask the Senator, is not the whole ocean a post-route? Is not every navigable stream a post-route? If the ocean is a post-route now under the general law, does the contract by the Postmaster-General to carry the mail on it establish a line?

Mr. WALLACE. The Senator does not take the amendment in its very words in asking his question.

Mr. HILL, of Georgia. Suppose I put it, then, that the additional inducement of a mail contract would induce private corporations to establish a line for the purpose of carrying the mails, does the company establish the line, or does the Postmaster-General establish the line? Does not the company establish the line; does not the company build the steamship; and does not the Postmaster-General simply contract with that company to carry the mails?

Mr. WALLACE. If the Senator from Georgia will put the amendment in the form which it ought to be "for the transportation of foreign mails," and giving power to execute a contract under the statute as it exists, he will be within the rule, and it will not be general legislation; but I answer in the words of the amendment itself, it is for "the establishment of mail-steamship lines," and it involves the use of the ships, the creation of the ships, the ports between which they are to run; all that is to be done by the Postmaster-General, and if that be not general legislation what is it?

Mr. HILL, of Georgia. Now, I call the attention of the Senator to the law, and ask him if this amendment is any different from this, if it proposes general legislation more emphatically than this, or if it establishes a steam line more emphatically than this establishes a line?

SEC. 4008. The mail between the United States and any foreign port, or between ports of the United States touching at a foreign port, shall be transported in steamships; but the Postmaster-General may have such transportation performed by sailing-vessels when the service can be facilitated thereby.

Does that establish steamship lines by the Postmaster-General?

Mr. WALLACE. The Senator from Georgia answers the point of order in regard to general legislation by quoting general legislation from the statute-book.

Mr. HILL, of Georgia. The very point is, is not the amendment now proposed simply a provision to enable the Postmaster-General to carry out existing law?

Mr. WALLACE. It does not contain an appropriation for the transportation of the mails upon mail-routes now in existence, and that is the point toward which appropriation bills usually go.

Mr. JONES, of Florida. Will the Senator allow me to ask a question?

Mr. WALLACE. Certainly.

Mr. JONES, of Florida. I ask him how the foreign mails are now carried under existing law; and if there is any difference between it and the propositions now pending; it is not in favor of American ships?

Mr. WALLACE. Should the Senator take the bill which has been passed through the Committee of the Whole he will find how appropriations are made, and he will find on page 8, line 184, the appropriations for foreign mails in these words:

For transportation of foreign mails, $225,000.

That is the way we make provision for the transportation of foreign mails.

Mr. JONES, of Florida. How are the mails now carried to Great Britain?

Mr. WALLACE. They are carried to Great Britain under a special contract made in reference to the amount of postage.

Mr. JONES, of Florida. In what description of ships?

Mr. WALLACE. In steamships.

Mr. JONES, of Florida. Owned abroad? That is what I want to get at.

Mr. WALLACE. Then let us come back to the question; let us hold ourselves to the single question involved in this measure. There is no use of getting excited over it. The whole, single point is, do the words "for the establishment of mail-steamship lines" involve the duty of general legislation, the creation of general legislation by the Postmaster-General? If they do, then this amendment is not in order; if they do not, it is, and that is all there is of this question.

Mr. GARLAND. Mr. President, I intend, at the invitation of the Senator from Pennsylvania, to confine myself strictly and legitimately to the question presented, which is whether the ruling of the Chair yesterday evening on this question of order is correct. The Chair ruled yesterday that the amendment offered by the Senator from Alabama to the Post-Office Appropriation bill was not in order because under clause 1 of Rule 29 of the Senate it proposed general legislation, and therefore is obnoxious to that rule. The word to be construed to get at the meaning of the rule in regard to this amendment is the word "general." Certainly this is a general appropriation bill. Now by implication under this rule which denies the power to receive an amendment that proposes general legislation, of course special legislation may be in order by way of amendment. That is as clearly to be inferred from the rule as if it was stated in so many words. Special legislation is allowed, then, to what? To the particular matter in hand. What is that? That is to the postal service of the United States. We cannot, by an amendment, put anything in reference to the distribution of pensions upon this bill. We cannot tack on the Geneva award, under this rule, to this bill. We cannot tack on the Indian serveralty bill by an amendment to this bill. Nor can we put on anything that is not germane to and connected with the postal service by an amendment to this bill.

That is all that Rule 29 attempted to provide against; that is to say, no general legislation lying outside of the subject-matter itself shall be incorporated by an amendment upon a general appropriation bill. That is all there is in the rule, because I wish Senators to observe how completely and how fairly would be emasculated the bill reported by the Committee on Appropriations itself if this were not the rule, because the committee can no more usurp this power in presenting a bill here than can any Senator violate the rule by proposing general legislation on this bill. Yesterday evening in the few remarks I made I referred to some portions of this bill. It is largely composed of general legislation, according to the definition of the Senator from Pennsylvania. There is scarcely a paragraph in it, certainly not a page in it, that is without some general legislation, according to the interpretation of the Senator from Pennsylvania, which I do not concede to be "general legislation" within the interpretation of this rule. I adverted yesterday to the provision in lines 28, 29, and coming down to line 59, which begins:

And the Postmaster-General is hereby authorized to take the necessary steps to rent a suitable building or buildings for the use of the money-order office of the Post-Office Department.

Then further on, on page 5:

And the Postmaster-General is hereby authorized to expend not to exceed $25,000 thereof for special railroad service between the Union Depot in East Saint Louis, Illinois, and the Union Depot in Saint Louis, Missouri; and such sum shall include depot room and transfer service at each terminal—

An amendment put on by the committee, I believe on the motion of the Senator from Missouri, [Mr. VEST.]

Then in line 107 I find:

Said company shall have its pay reduced 10 per cent. on the rates fixed in section 4002 of the Revised Statutes, as amended by act of July 12, 1876, entitled "An act making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1877, and for other purposes," &c.

There it goes on and absolutely repeals existing legislation. Now this amendment only seeks to modify the law which has been read by the Senator from Alabama, [Mr. MORGAN,] which makes the great ocean a highway for the carrying of the mails of the United States. That is all there is of it. It is not within the ingenuity of man to fritter this rule away under the clause as to general legislation, which has reference entirely to propositions and subjects-matter outside of the particular object and scope of the bill.

The Senator from Pennsylvania says that this makes a steamship service. Very well; that question is *res adjudicata* in the Senate. In the third session of the Forty-fifth Congress the Senate had under consideration a bill (H. R. No. 6143) "making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes," just the bill we have here; and "on the question to agree to the amendment reported by the Committee on Post-Offices and Post-Roads to establish ocean mail-steamship service between the United States and Brazil, a question of order was raised 'that the amendment was not germane to the subject-matter contained in the bill, and could not properly be included in it.'" The Chair submitted the question to the Senate for its decision. It was determined that the amendment was in order—yeas 39, nays 23. A second question of order was raised, to wit: "that the amendment proposed general legislation"——

Mr. CONKLING. What instance does the Senator refer to?

Mr. GARLAND. I am referring to the decision in the Forty-fifth Congress, third session, on the Post-Office appropriation bill. "A second question of order was raised, to wit: that the amendment," that is, the amendment reported by the Committee on Post-Offices and Post-Roads to establish mail-steamship service between the United States and Brazil, was out of order under Rule 29. The first question of order was that it was not germane. The Senate said it was. Then came the second question:

That the amendment proposed general legislation to a general appropriation bill, and could not be received under the first clause of the twenty-ninth rule.

The Chair submitted the question to the Senate: "Is the amendment in order?"—

It was determined in the affirmative—yeas 33, nays 26.

That is just this question. That amendment was to establish a mail-steamship service that did not then exist, which is just what this is intended to do, and the particular limitation, between the United States and Brazil, does not take it out of the operation of this rule, because under this the Postmaster-General may establish a line from here to Brazil or from here to anywhere else. It does seem to me that the interpretation of the words "general legislation" in Rule 29 leaves no room to doubt; but if there was room to doubt, here is a case where after a long and somewhat tedious discussion, which all who were here then remember, the Senate solemnly adjudicated that such an amendment was in order to just exactly this bill from the same committee.

Mr. FERRY. Mr. President, the chairman of the Committee on Post-Offices and Post-Roads has substantially answered the point made by the Senator from Kentucky when he criticised the course pursued by that committee. I intended to obtain the floor for the purpose of restating what had been said by the Senator from Maine that so far as the chairman of the Committee on Post-Offices and

Post-Roads was concerned he had discharged fully his duty. Having arrived here at a late day, he availed himself of the very first day, last Monday, to call the committee together to consider the very subject now pending before the Senate.

Now I want to say in that regard that not only did this committee sit during its ordinary hours, but the chairman called the committee together in special session on the same day in the afternoon, and hour after hour was spent in the consideration of this subject and this alone. So then, so far as consideration is concerned, the Committee on Post-Offices and Post-Roads gave it every attention that could be demanded of them, and when they had arrived at a conclusion at a late hour on Monday evening, the chairman was directed to report to the Senate this amendment. Now a member of the Committee on Appropriations states in the hearing of the Senate that every amendment should be submitted to that committee before they have concluded their judgment upon the bill to which an amendment relates. I desire to recall the attention of the Senate to the fact and I especially call attention to the bill appropriating money for rivers and harbors, how often when that bill has been pending have amendments been submitted to the Senate and referred to the committee in order to come within the rule? No Senator upon this floor has ever contended before that an amendment of that kind should be referred before the committee had concluded its work upon the appropriation bill before it.

Our Committee on Appropriations is industrious; and in saying that I pay it the compliment that every Senator will pay it. It not only discharges its duty, but it is perhaps if not more industrious than any other at least as industrious as any committee of the Senate. I understand this committee sits every day. Is it not so? A member of the Senate before me assents to that statement, that the committee sits every day. This amendment was referred to it on the 7th, on Monday last, and to-day is Friday, the 11th; so that the Committee on Appropriations has had so many days' notice of this amendment for consideration, and if that committee has not considered it, it is not the fault of the Committee on Post-Offices and Post-Roads, nor of the chairman of that committee who moved the amendment.

Now, Mr. President, I desire to call the attention of the Senate for a few moments to the merits of this question. The amendment does not establish any steamship lines. The bill itself appropriates $225,000 for foreign postal service, and that in the judgment of the Senator from Kentucky is perfectly legitimate. This amendment provides for additional postal service and makes an appropriation of $1,000,000 for that purpose. What further does it say? Not that steamships shall be built, not that any particular line shall be established, but it simply restrains the Postmaster-General to an equitable distribution of the service upon the public waters, saying that between the Atlantic, Mexican-Gulf, and Pacific ports there shall be an equitable distribution of the postal lines to foreign nations.

What more does it say? That the service shall not be performed, except by steamships owned by American citizens—not built by American citizens, but owned and manned by American citizens; so that if there are no such steamships, not a dollar of the appropriation can be taken; and I say here to-day, that no steamship line is intimated or established by this amendment. It is simply saying to the Postmaster-General whenever you shall add to the postal service upon the great waters between this country and foreign nations, it shall be upon steamships owned and manned by American citizens, simply that and nothing else.

The Senator from Arkansas has well said that when the question of subsidy for a line between this Government and Brazil was up, when the proposition offered clearly was the establishment of a line and defining the character of the vessel that it should be a steamship of so many tons burden, built of iron, the Senate decided that it was in order as an amendment to an appropriation bill. Here is an appropriation simply adding to the appropriation for postal service. The Senator from Georgia well said that the waters of our country and between it and foreign countries are post-routes so established by law. The Postmaster-General to-day under the law is authorized to establish postal service upon the water. He can establish postal service not only there but upon land upon all railroads. There are many routes to-day where service is not placed. That matter is left entirely to the discretion of the Postmaster-General. Why? Because you limit the appropriation and it is but right and just that you should leave it to his discretion. Here you propose to vote a million dollars, and to say to the Postmaster-General that in his discretion he shall place the mails upon certain ships that shall best serve the postal interests of the country. That is the whole nature of the amendment.

I recall the attention of the Senate to a case where an amendment, I think was offered by the Senator from Louisiana, not now in his seat, [Mr. KELLOGG,] to the sundry civil appropriation bill regulating the Federal election laws and on a point of order that it was not in order and an appeal taken to the Senate from the ruling of the Chair, the Senate sustained the right to move the amendment proposed by the Senator from Louisiana. I say where there is perfect relevancy, where there is simply an additional appropriation to an appropriation for the same service in the bill, the point of order is not well taken, and I hope the Senate will overrule the decision of the Chair.

Mr. WHYTE. I only desire to say a few words upon the subject of this point of order. This bill is sought to be amended by interpolating a clause of this character:

For additional postal service to foreign countries, $1,000,000, to be expended, under the direction of the Postmaster-General, in the establishment of mail-steamship lines, equitably distributed among the Atlantic, Mexican-Gulf, and Pacific ports, &c.

So that this million of dollars is not to be appropriated to pay specifically for carrying the foreign mails, but it is a lumping appropriation to be equitably distributed among steamship lines to be established by the Postmaster-General. If that is not subsidy in the broadest and baldest sense, I do not know what subsidy is. That is the proposition.

Then the proviso is:

That the vessels employed for such service shall be owned and manned by American citizens, and that said vessels thus employed shall be iron steamships, accepted by the Secretary of the Navy, after due inspection, as in all respects seaworthy and properly fitted for such service.

The objection made to that amendment is that it is general legislation, and the Senator from Arkansas refers us to the terms of the bill itself. One of his references is to the bill itself as an argument why the objection to this amendment ought not to prevail, because the bill itself contains some general legislation. That is no argument, and I was surprised to hear it come from the Senator from Arkansas. The amendment is the point, not the bill. Of course the original bill could contain general legislation. The point is that the amendment contains general legislation, and therefore is not to be adopted or received to a general appropriation bill. Now, what is general legislation?

The Senator from Arkansas, with his acuteness as a lawyer, undertakes to discriminate between general legislation and special legislation; but that is not what I understand to be meant by the use of the words "general legislation" in this rule. "General legislation" as used in this rule is understood to be that which in parliamentary usage has been so known since 1837 in the House of Representatives, and subsequently in the Senate. It is any legislation which changes existing law; that shall not be put on an appropriation bill by way of amendment. That is what it means. The appropriation bill is to carry out existing law. That is what it is for. A general appropriation bill everybody knows is a bill appropriating money to carry out that which is regulated by the existing law, and these bills are divided into several classes, I think now about thirteen appropriation bills in all general in their character. They are intended to cover expenditures regulated by existing law.

Mr. JONES, of Florida. Will the Senator permit me to ask him a question?

Mr. WHYTE. Certainly.

Mr. JONES, of Florida. Wherein does this amendment change the existing law?

Mr. WHYTE. I am going to show directly. First, I want to establish the fact that that is the legislation at which the rule strikes, legislation which changes existing law, because a general appropriation bill is to carry out existing law and to provide means to pay for those expenses which are regulated by existing law. That is what I understand a general appropriation bill to be.

Mr. CONKLING. Will the Senator from Maryland permit me to interpose for a moment?

Mr. WHYTE. Certainly.

Mr. CONKLING. I see clearly the distinction the Senator states between an appropriation bill and an amendment to an appropriation bill, and I agree with him that the rule is leveled at amendments. I ask the Senator, however, in view of that distinction, what becomes of an amendment printed here on the face of the bill on page 2, and I ask him that question not because the decrees of the Appropriations Committee change or even construe the rules of the Senate, but because if this rule is to be good for anything, if it is worth contending for at all, it must be uniform in its operation. Here as I understand, on the motion to be sure of the Committee on Appropriations—which I must say I do not think makes an amendment any more competent than if it was on the motion of my friend from Maryland—is an amendment striking out what was found in the House bill and putting in I will not stop to count how many lines which change existing law and make provision for the *modus operandi* of letting mail contracts in every State, if I understand it, and in every Territory of the United States. Now what will the Senator from Maryland do with that, although the text of the bill may escape his observation under the distinction he has drawn—what will he do with the thing which is confessedly an amendment on the face of this bill which does not appropriate money and does nothing except to uproot and change existing law?

Mr. WHYTE. I do not do anything with it at all. It is a report from the Committee on Appropriations amending the character of the language of the bill itself, which had been no doubt inserted by those astute publishers of newspapers in the District of Columbia who wanted to make a recent act passed by this body apply to the Post-Office Department.

Mr. CONKLING. But does that make it any more competent under the rule?

Mr. WHYTE. Not a bit; but no objection was made to it. I am not arguing in favor of it. I think it was against the rule, as the Senator from New York no doubt saw. I agree with him.

Mr. President, the Senator from New York has very properly sug-

gested to me that the amendment of the Committee on Appropriations on page 2 of the bill may be liable to the very objection that I am now urging against the amendment proposed by the Post-Office Committee; but that does not make it any better. No question of order was raised upon that amendment; it passed *nem. con.* both in Committee of the Whole and in the Senate, and therefore it is out of the way for me to stop to discuss that. I come back to the point at which I was when the Senator from New York interrupted me.

I say that a general appropriation bill being a bill to carry out existing law, it was intended by both Houses of Congress, though the language is not exactly the same, but the spirit of the rule is the same, to prevent the tacking on to a general appropriation bill of an amendment that changed existing law, because the idea was that an appropriation bill general in its character was only executing the existing law by providing the money for it. Now, I refer to the old rules of the House of Representatives, not referring to anything that has been transacted in the House, which I have no right to do under the rule, but referring to this as a matter of parliamentary history, which is perfectly proper in debate, and the spirit of this very rule is incorporated in the rule of the House, the old rule of 1837, and the more recent rule of 1876, which provides in these terms:

No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law—

That was the old rule. You could not introduce it at all if it had not been previously authorized by law; but it went on a little further—

unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order except such as, being germane to the subject-matter of the bill, shall—

Not increase the appropriations, but—

retrench expenditures.

That was the object. No appropriation was allowed to change existing law unless you could get it in under the theory that it reduced the appropriation instead of enlarging it. An amendment containing an appropriation increasing the amount in a general appropriation bill was out of order if it changed existing law, and it must change existing law if it increased, because the appropriation bill was supposed to be carrying out existing law.

Now, does not this change existing law? The Senators, every one of them, who have argued in favor of this amendment being in order have out of their own mouths condemned themselves by the very authority to which they have referred, the Revised Statutes. Every one of them shows that the existing law limits the Postmaster-General in the amount of money that he can pay to American steamships and limits him also to the amount he can pay to foreign vessels.

Mr. MORGAN. I ask the Senator from Maryland whether he is quoting now as the law the rule that is at present obligatory on the Senate or the rule that used to be obligatory on the House?

Mr. WHYTE. I am quoting the rule which emanated from the House and which in its spirit has been adopted in the Senate, which existed as far back as 1837, has been re-enacted in 1876 in more specific terms, but which is ingrafted in the rules of the Senate almost *in totidem verbis*. The words "general legislation" refer to the change of existing law, and have always been so understood except when a majority of the Senate in the exercise of their wisdom and their judgment have chosen to vote otherwise, and which sometimes happens, I admit.

Now, Mr. President, the law expressly provides a limitation of the amount which shall be paid, and that is for carrying the mail; it is the sea postage and the inland postage to American vessels, and sea postage to others according to this clause in the Revised Statutes:

SEC. 4009. For transporting the mail between the United States and any foreign port, or between ports of the United States touching at a foreign port, the Postmaster-General may allow as compensation, if by a United States steamship, any sum not exceeding the sea and United States inland postage; and if by a foreign steamship or by a sailing-vessel, any sum not exceeding the sea postage, on the mail so transported.

That is to be repealed by this amendment, and in lieu of that a bonus, a distribution, a gift enterprise is to be established at the Post-Office Department and a million of dollars are to be equitably distributed between the steamship lines which the Postmaster-General may choose to establish if he can get ships owned and manned by American sailors, and they be of iron. Where are the ships? Who can get them during the time that this appropriation runs—for one year?

Mr. MORGAN. The Senator from Maryland in discussing the point of order has gone into the merits of this question. I beg to say to him that I will not vote for any amendment that does not give opportunity to American citizens who may desire to contract to carry the mail to get their ships wherever they can buy them; and so it is understood that this amendment provides.

Mr. WHYTE. No, Mr. President, I am not going now into the merits. If it is decided to be in order, I will go into the merits of the measure at the proper time, and to the full extent of my ability endeavor to defeat it. I look upon it as a subsidy of the clearest character, and I feel that it is my duty to oppose it if it comes before the Senate. I do not object to other gentlemen entertaining their views, and I will discuss it respectfully with them. I will say nothing disagreeable, I trust, to any gentleman in the discussion of this subject; but I will discuss it with all the power that I possess, because I believe it is not only reviving that which has been tried and proved a disastrous failure in the past, but that it is opening the door of the Treasury for depletion hereafter by all sorts of enterprises inaugurated for the purpose of getting into the public Treasury. But I will not dwell upon that; I am coming back for one moment longer to the point.

Mr. BUTLER. Will the Senator yield to me for a motion to adjourn?

Several SENATORS. Let us get through.

Mr. WHYTE. I shall not take five minutes.

Mr. President, I was about to call the attention of the Senate to what the Senator from Arkansas [Mr. GARLAND] had said. I have tried to demonstrate that this term "general legislation" had reference to the changing of existing law, and the Senator from Delaware [Mr. BAYARD] doubtless had that in his mind when he proposed to the Senator from Alabama the insertion of the words "under existing law." The Senator from Alabama saw at once that would not do, because the amendment changes existing law, and under this rule—the old rule of the House—under this rule, which we have adopted in spirit in the Senate, this is general legislation, in my judgment. But the Senator from Arkansas refers us to the action of the Senate in 1879, I think it was, refers us to the action of the Senate on the Brazilian subsidy. I well remember it. We had the subject under discussion then, and a majority of the Senate did decide that the amendment then proposed was in order, and that majority carried the bill through. What was the fate of the bill? It went back to the House; we had a conference on it; the conference failed to agree. Questions of order were raised upon our amendment, and dispute arose between the two Houses, and we appointed a committee of five, of which I had the honor to be one, to investigate the differences between the two Houses, and what was the result? The bill failed, and an extra session of Congress, the first session of the Forty-sixth Congress, was the consequence. It failed; it went by the board; and so I trust that a majority of the Senate will allow this appropriation bill to pass without this amendment on it.

The PRESIDING OFFICER. Shall the decision of the Chair stand as the judgment of the Senate?

Mr. EATON called for the yeas and nays, and they were ordered.

Mr. CONKLING. Before the call of the roll proceeds seeing as I do already a conflict and misunderstanding as to the effect of the vote, I ask the Chair whether I am right in saying that those who vote "nay" vote that the offered amendment is admissible under the rule, and those who vote "yea" vote to exclude the amendment.

The PRESIDING OFFICER. The present occupant of the chair understands, not having been presiding at the time when the point was made, that the pending amendment was held to be inadmissible under the first clause of the twenty-ninth rule, from which decision the Senator from Texas took an appeal, which is now pending, and that is the point which is now before the Senate, the question being, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. CONKLING. Not meaning to detain the Senate except for a moment, I shall vote that the offered amendment is admissible under the rule, and I should be glad to give that vote without in form voting to overrule the decision of the Chair, given as that decision was by a Senator who, in addition to being an accomplished parliamentarian, is always just and candid in his decisions. I shall vote that the amendment is admissible, not upon the rule alone as it stands in the print which the Presiding Officer read and on which he decided, but under that rule as it has been construed again and again in instances cited and in other instances as well by the Senate, and by the Senate after discussion and consideration I shall so vote on the rule as it stands construed not only by the Senate but by the committees of the Senate, including the Appropriations Committee now from whom this bill comes, their construction, (as I quote the distinguished Senator from Maryland when I say) being accepted *nem. con.* by the Senate in Committee of the Whole and also technically in the Senate. They report a bill containing a section which leaving the words "for advertising $35,000" proceeds with many lines to do nothing except to change existing law, confining that change to be sure to the disposition and application to be made of the money spoken of in the section.

Observing the spirit and scope of that amendment, the Senator from Arkansas says and other Senators say that the term "general legislation" as employed in the rule before us applies to legislation *dehors* the appropriation, legislation alien to that legislation, touching other topics. So the Committee on Appropriations seem to read the rule; so the Senate has given the committee repeated warrant to read the rule, as for example when on an appropriation bill sections were moved regulating the establishing of law touching the holding and verification of elections. I have not forgotten that by a vote of the Senate, after a debate which was thorough if being hot could make it thorough, it was decided that provisions such as I have referred to were not offensive to the rule under which the pending point is made.

So I cannot forget having heard the Senator recite it, although before I was not quite sure of the nature of the amendment or of the very bill to which it was proposed, I remembered, as I stated yesterday in general terms, that an amendment like this, certainly as obnoxious as this in respect of the point of order, was proposed to an

appropriation bill; it turns out to this very appropriation bill, the Post-Office appropriation bill; and it was held in order after a full discussion, because I may say without impropriety that the Senate is never so in its glory as on a question of order. Nothing ever receives at the hands of the Senate more copious and more pointed consideration than a thorough-going question of order. After such consideration such an amendment offered to this very appropriation bill was, upon the yeas and nays, ascertaining the views of the Senate member by member, deliberately held to be competent.

It was the saying of a great lawyer and a great judge, in substance—I do not quote his words—that certainty in laws is more important than philosophy; it is not so vital that the law should be right as that the law should be certain. I say that of the rules of the Senate; and if, after all the occasions on which amendments of this sort have been held by the Chair and pronounced by the Senate to be in order, it is thought they should be excluded, then change the rule and make it definite, and make it apply to all committees alike, the Committee on Appropriations as well as the Committee on Post-Offices and Post-Roads. In the language of the good book, let there be but "one law" to "him that is homeborn, and unto the stranger that sojourneth among you." If the rule is to be good for the Committee on Appropriations to report an amendment changing existing law and doing nothing else, then it seems to me it should be equally good for the Committee on Post-Offices and Post-Roads after they have considered this question as laboriously as I have heard from several members of the Post-Office Committee on this occasion; and it really gave me a sense of fatigue and exhaustion myself when I heard a recital of the way in which that committee had labored over this proposition. I say that I think it should be good for a committee so earnest, so arduous, so industrious as I cannot doubt that committee has been in perfecting and advancing the pending amendment.

Taking it altogether, whatever might be my judgment, as an original question upon this naked rule as it was presented to the Senator who presided when this ruling was made, I feel that I must either observe the repeated constructions given to the rule by the Senate or I must set myself up at a somewhat late day on an independent judgment of my own, and therefore I shall vote that this rule has come to be so in terms broad enough to permit the consideration of this amendment.

The Secretary proceeded to call the roll.

Mr. ALLISON, (when his name was called.) On this question I am paired with the Senator from Vermont, [Mr. EDMUNDS.]

Mr. BECK, (when his named was called.) I am paired upon all questions connected with this amendment, and I suppose on the rulings as well, with the Senator from Maine, [Mr. BLAINE,] now confined to his house by sickness. I decline to vote on that account.

Mr. DAVIS, of West Virginia, (when his name was called.) On this question I am paired with the Senator from Minnesota, [Mr. WINDOM.]

Mr. MCMILLAN, (when his name was called.) On this question I am paired with the Senator from Mississippi, [Mr. BRUCE.] If he were here, I should vote "yea."

Mr. MORGAN, (when his name was called.) I am paired with the Senator from Indiana, [Mr. VOORHEES,] unless my vote should be necessary to make a quorum.

Mr. SAUNDERS, (when his name was called.) On this question I am paired with the Senator from Delaware, [Mr. SAULSBURY.] If he were present, I should vote "nay."

Mr. WALLACE, (when his name was called.) On this question I am paired with my colleague, [Mr. CAMERON, of Pennsylvania.] If he were here, I should vote "yea."

The roll-call having been concluded, the result was announced—yeas 15, nays 29; as follows:

YEAS—15.

Bailey,	Groome,	Ingalls,	Ransom,
Bayard,	Hampton,	Kernan,	Slater,
Booth,	Harris,	McDonald,	Whyte.
Eaton,	Hereford,	Pendleton,	

NAYS—29.

Baldwin,	Dawes,	Jonas,	Rollins,
Blair,	Farley,	Jones of Florida,	Vance,
Brown,	Ferry,	Lamar,	Vest,
Burnside,	Garland,	Maxey,	Walker,
Butler,	Hamlin,	Morrill,	Williams.
Call,	Hill of Georgia,	Paddock,	
Coke,	Hoar,	Platt,	
Conkling,	Johnston,	Pugh,	

ABSENT—32.

Allison,	Cockrell,	Kirkwood,	Saunders,
Anthony,	Davis of Illinois,	Logan,	Sharon,
Beck,	Davis of W. Va.,	McMillan,	Teller,
Blaine,	Edmunds,	McPherson,	Thurman,
Bruce,	Grover,	Morgan,	Voorhees,
Cameron of Pa.,	Hill of Colorado,	Plumb,	Wallace,
Cameron of Wis.,	Jones of Nevada,	Randolph,	Windom,
Carpenter,	Kellogg,	Saulsbury.	Withers.

The PRESIDING OFFICER. The decision of the Chair is not sustained. The amendment is held to be admissible by the Senate under the first clause of the twenty-ninth rule.

Mr. HAMLIN. The amendment which is now pending was very hastily drawn by the committee, and I have prepared an amendment which I think covers precisely the same ground with the amendment as offered, but with additional guards to it, and I therefore move to amend the proposition by striking out all after the words "Postmaster-General," in the third line, and inserting what I send to the Chair.

The PRESIDING OFFICER. The matter proposed to be inserted will be read.

The CHIEF CLERK. It is proposed to strike out all after the words "Postmaster-General," in line 3, and insert, in lieu of the words stricken out:

And the Postmaster-General is authorized, after due public competition, to enter into contract with the lowest responsible bidders, for terms of ten years, for such transportation between such home and foreign ports as he may in his discretion designate, in order best to promote the postal and commercial interests of the United States, in iron steamships wholly owned by American citizens and registered in American registry, such ships to be duly inspected under the direction of the Postmaster-General and Secretary of the Navy, and be equal in construction, accommodations, safety, and speed to the best vessels on the ocean carrying mails to the same ports, at a rate of compensation not exceeding $30 per mile, one way, for twelve round trips per annum, or the same proportionate rate for a quarter or less number of trips per annum; such contracts to contain all provisions for securing efficient service which may be customary and required by law in such cases. One-fourth part of the appropriation herein made shall be applicable to ports on the Pacific coast, one-fourth part to ports lying south of and including Fortress Monroe and ports on the Gulf of Mexico, and one-half to ports lying north of Fortress Monroe.

Mr. WALLACE. I reserve all points of order on this, but I ask that it be printed for the information of the Senate; and I move that the Senate do now adjourn.

Mr. HAMLIN. Let us go into executive session.

Mr. WALLACE. Very well; I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After twelve minutes spent in executive session the doors were reopened, and (at five o'clock and twenty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 11, 1881.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. CLYMER. I call for the regular order.

The SPEAKER. This being Friday, the regular order is the morning hour for the presentation of reports from committees of a private nature.

Mr. KING. I rise to make a privileged report from the Committee on the Interoceanic Canal.

The SPEAKER. This is Friday, and under the rule only private business can be reported.

Mr. ATKINS. I move that the morning hour be dispensed with.

Mr. KING. I ask that the resolution which I send up be read.

The SPEAKER. The Chair cannot recognize the gentleman, because, in the first place, he presents a public proposition, and, secondly, the gentleman from New York, [Mr. HUTCHINS,] as the Chair understands, objects to the right of the gentleman to make the report at this time.

Mr. CLYMER. I renew the call for the regular order.

The SPEAKER. The gentleman from Tennessee [Mr. ATKINS] moves that the morning hour be dispensed with.

The question being taken, the motion of Mr. ATKINS was agreed to, two-thirds voting in favor thereof.

The SPEAKER. The morning hour having been dispensed with, one hour will now be devoted, in accordance with the new rule, to the call of States in alphabetical order for motions to take up for consideration bills on the several calendars and on the Speaker's table. The gentleman from Florida [Mr. BISBEE] was recognized yesterday, but when the hour expired the gentleman from Michigan [Mr. CONGER] was on the floor upon a point of order.

Mr. CONGER. I wish to inquire whether the hour this morning is confined to private bills or whether general bills may be called up?

The SPEAKER. The Chair will hear the gentleman from Michigan on the point of order, and would suggest that the debate on the point be as brief as possible.

Mr. CONGER. I do not wish to indulge in any debate. I only wish to raise the point whether the call to-day is confined to private bills, or whether the member recognized may call up a public bill.

The SPEAKER. Does not the gentleman think that in vacating other rules in conflict with this new rule, the rule requiring that Friday shall be devoted to private business is also vacated?

Mr. CONGER. I think it vacates that rule.

Mr. FRYE. I think the Committee on Rules so understood it.

Mr. CONGER. I submit that in this hour bills of any kind may be called up.

Mr. FRYE. That is the way we understood it.

The SPEAKER. The Chair concurs with the views thereon as expressed by the gentleman from Maine [Mr. FRYE] and the gentleman from Michigan, [Mr. CONGER.] The point of order raised by the gen-

tleman from Pennsylvania [Mr. CLYMER] has since the adjournment of yesterday been carefully considered by the Chair in all its bearings, and he desires to state the conclusion which he has reached.

In parliamentary law, as in common law, if two rules or laws are in harmony, both must stand; if in conflict, then the last should be effective. The Chair believes these two rules are practically at variance. If it were held by the House that a bill called up under the new temporary rule, which parted with the property or money of the United States, must have its first consideration in the Committee of the Whole, then the Chair would recognize and submit immediately a motion to go into the Committee of the Whole on such bill which was allowed to come up. The House evidently had the intention and purpose to avoid the delay of the execution of such a proceeding, otherwise the limit of five minutes fixed for debate would not have been inserted in the rule, for in Committee of the Whole the rules make no such limitation. The practice of the House has been by unanimous consent to act upon bills, even though such bills should part with the money or property of the United States. In this rule five objections are required instead of one to prevent the consideration of a bill. It will be noticed that the use of this hour for the purposes stated is not permitted unless two-thirds of the House so order; and the rule further states, not that such bills if permitted to be considered shall be voted upon after five minutes' debate in the Committee of the Whole, but that such bills shall be "voted upon" in "the House."

For the reasons stated and in view of what was manifestly the purpose and intention of the House in adopting this new rule to operate during the remainder of this session of this Congress, the Chair overrules the point of order.

The gentleman from Florida [Mr. BISBEE] is now entitled to the floor for five minutes upon the bill called up by him yesterday.

Mr. BISBEE. I think there will be no objection to the bill; and I do not wish to say anything in explanation of it.

The bill (S. No. 1193) granting a pension to Milton L. Sparr was read, as follows:

Be it enacted, &c., 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 Milton L. Sparr, as second lieutenant of Company K, Nineteenth Regiment Indiana Volunteers, from and after the passage of this act.

Mr. BISBEE. I ask a vote on the bill.

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

Mr. BISBEE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

The SPEAKER. The next State in order under this call is the State of Georgia; and the Chair recognizes the gentleman from Georgia, Mr. BLOUNT.

A MEMBER. He is not here.

Mr. HAMMOND, of Georgia. I was not here when this new rule was adopted, and I do not know how it should be construed; but I would like to know whether in the absence of my colleague [Mr. BLOUNT] the next member in alphabetical order from that State should not be called?

Mr. KEIFER. We do not hear the gentleman.

The SPEAKER. The gentleman from Georgia is asking whether, when the member entitled to a call under the new rule is absent, the next member in alphabetical order from the same State should be called. The Chair thinks not.

Mr. CLYMER. The gentleman from Georgia [Mr. BLOUNT] is absent by permission of the House on duty for the House.

A MEMBER. That makes no difference.

The SPEAKER. The Chair thinks he has no discretion in the matter. The next State in order is the State of Illinois; and the Chair recognizes the gentleman from Illinois, Mr. ALDRICH.

Mr. ALDRICH, of Illinois. I call up from the Speaker's table Senate bill No. 1935, to confirm to the city of Chicago the title to certain public grounds.

Mr. HAMMOND, of Georgia. I would like to suggest, if I am not too late, that the object of the rule, as I understand, is to give each State an opportunity to call up a bill. The object of the privilege is not to accommodate personal preferences. Without undertaking to consume any time upon the question, I submit that the House ought to allow the State of Georgia an opportunity now to bring up one bill on this call.

The SPEAKER. Yesterday two States, each having a single Representative, lost their opportunity, and will not again be called unless by unanimous consent until all other members have been called.

Mr. HAMMOND, of Georgia. That is because there was nobody here to represent those States. There are other Representatives here from the State of Georgia.

The SPEAKER. In answer to the point raised by the gentleman from Georgia, the rule will be read.

Mr. SPRINGER. It is not necessary, I suggest, to read the whole rule. The last clause covers the point.

Several MEMBERS. Regular order!

The SPEAKER. The gentleman from Georgia rises to a question of order, and is entitled to be heard. The last portion of the rule will be read.

The Clerk read as follows:

Any member not answering as his name shall be called shall be considered to have waived his privilege.

Mr. PRICE. It does not waive the privilege of the State.

Mr. HAMMOND, of Georgia. I understand that to mean simply this, that the States and Territories shall be called in their order, and to avoid any contest as to who shall represent the State, or what bill shall be presented, the rule was adopted that the first man called alphabetically representing that State should for the time being stand as its sole representative. But the reason of the rule is that the State shall have a hearing and if the colleague first called, as Mr. BLOUNT was, is out of his place by leave of the House on public duty, it is denying the right of the State, I claim unjustly, to pass on when other members are here waiting to introduce measures in behalf of that State. My colleague waived his right, but he cannot waive the right of the State.

Mr. CONGER. This was an individual privilege to each individual member. The call of the State is merely a mode by which we shall reach more conveniently each member. Now, then, when the State is called, the individual member having the first right may present his bill as he might if they were called in alphabetical order. If he is absent, he waives it. The committee so intended, and so the rule states. Let the call now go on to other States, so other individuals may exercise their individual privilege.

The SPEAKER. The Chair is willing to submit the question, that the House may put its own construction on the rule. Shall the point of order as made by the gentleman from Georgia prevail, and control the Chair in his recognitions?

The House divided; and there were—ayes 64, noes 45.

Mr. WHITTHORNE. No quorum has voted.

The SPEAKER. The gentleman from Tennessee makes the point that no quorum has voted, and the Chair appoints the gentleman from Tennessee, Mr. WHITTHORNE, and the gentleman from Georgia, Mr. HAMMOND, as tellers.

Mr. MCMILLIN. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MCMILLIN. If a present decision or a decision in the affirmative prevails, will it have the effect to call over the State of Colorado, which has one Representative, ten times before a State having a delegation of ten Representatives is called? [Cries of "No!" "No!"]

The SPEAKER. That is in the nature of an argument as to the propriety of the vote to be given.

Mr. MCMILLIN. I desire to know what will be the effect so as to know how to vote on the question.

The SPEAKER. When the contingency alluded to arises the Chair will decide.

Mr. HAMMOND, of Georgia. Each State should have an opportunity to be heard by somebody.

Mr. CALKINS. An affirmative vote bears the Chair out in his ruling on this question.

The SPEAKER. The Chair stated that he thought this was an individual right; that that part of the rule which provides the manner in which they should be called was for convenience; but he will submit the question to the House. Now if the House shall sustain the point of order made by the gentleman from Georgia, then another name will be called from the State of Georgia.

Mr. CONGER. What then?

The SPEAKER. If that gentleman is not present then another name from Georgia will be called.

Mr. CONGER. Then the whole State may have to be called before another State can be called.

Mr. PRICE. But the State should have at least one recognition.

The House again divided; and the tellers reported—ayes 81, noes 59.

The SPEAKER. The ayes have it, and the point of order made by the gentleman from Georgia is sustained.

Mr. KEIFER. I demand the regular order.

The SPEAKER. In consequence of this decision by the House, the Chair is required to call another gentleman from Georgia. The Chair recognizes the gentleman from Georgia, Mr. COOK.

Mr. PRICE. The intention was to give to each State the right to respond, and Georgia has responded.

The SPEAKER. The point of order raised as to the State of Georgia was affirmed. The gentleman himself voted to sustain the right of the State of Georgia to be called again, in the person of a member from that State present.

Mr. PRICE. I voted to sustain a response from every State, but only one response.

Mr. HAMMOND, of Georgia. We have not had one yet.

The SPEAKER. The gentleman from Georgia, Mr. COOK, is recognized.

MONEY DUE THE STATE OF GEORGIA.

Mr. COOK. I move to discharge the Committee of the Whole on the state of the Union from the further consideration of a bill (H. R. No. 3560) to refund to the State of Georgia certain money expended by said State for the common defense in 1777, and to ask that it be put upon its passage.

The Clerk proceeded to read the bill.

Mr. CONGER. If there is any time when we should be able to hear all that is read it is when we are asked to grant these unanimous consents.

The SPEAKER. The Sergeant-at-Arms will personally request, without his mace, members to resume their seats and preserve order.

Mr. CONGER. I am not able to hear anything that is read at the desk.

The SPEAKER. Nor is the Chair able to hear.

Mr. CONGER. I ask that it be read again.

The SPEAKER. If gentlemen want to converse they will accommodate their fellow-members by going to the cloak room.

The bill was read.

The SPEAKER. This bill is reported from the Committee on Claims, and is in Committee of the Whole on the state of the Union. Is there objection to its present consideration? [After a pause.] More than ten gentlemen rising to object, the bill is not before the House for consideration.

PUBLIC GROUNDS IN THE CITY OF CHICAGO.

The State of Illinois being called,

Mr. ALDRICH, of Illinois, asked the consideration of Senate bill No. 1935, a bill to confirm to the city of Chicago the title to certain public lands.

Mr. WEAVER. I reserve all points of order on that bill.

The SPEAKER. The point of order on the bill will be the five objections called for to its consideration.

Mr. WEAVER. I object to its consideration.

The SPEAKER. Does the gentleman object before the bill is read?

Mr. WEAVER. I do.

The SPEAKER. The Chair will state that it requires five objections to the consideration of a bill.

Mr. TOWNSHEND, of Illinois. The bill should be first read before objections are called for.

The SPEAKER. Gentlemen evidently know what the substance of the bill is from the title; objection was made as soon as the title was read.

Mr. TOWNSHEND, of Illinois. I maintain that under the rule it is the right of the member to have the bill read before objection can be made to its consideration.

The SPEAKER. The bill will be read.

Mr. HAYES. I hope that those gentlemen who object to this bill will listen attentively to the reading of it.

The SPEAKER. The bill will be read.

The bill was read at length.

Mr. TOWNSHEND, of Illinois. It is proper now that there should be objections asked for to the reading of the bill, I presume.

The SPEAKER. The Chair will now call for objections to the consideration. Is there objection to the present consideration of this bill? [After a pause.] More than twenty gentlemen objecting, the bill is not before the House for consideration.

Mr. SINGLETON, of Illinois. Mr. Speaker, I was not objecting.

The SPEAKER. The Chair did not count the gentleman from Illinois. There were twenty and more rising without him.

INDIANAPOLIS A PORT OF DELIVERY.

The State of Indiana being called,

Mr. BAKER asked the consideration of House bill No. 3520, a bill to establish a port of delivery at Indianapolis, in the State of Indiana.

The bill was read as follows:

Be it enacted, &c., That section 2568 of the Revised Statutes be amended by adding "Indianapolis, in the State of Indiana," after the words "La Crosse, in Wisconsin."

The SPEAKER. This bill is reported from the Committee on Commerce with an amendment, and is on the House Calendar. The amendment will be read.

The Clerk read as follows:

Add to the bill the words "and that section 2997 be amended by adding after the words 'Mobile, in the State of Alabama,' 'Indianapolis, in the State of Indiana.'"

Mr. HAMMOND, of Georgia. I desire to ask a question of the gentleman offering this bill.

The SPEAKER. Debate is not in order until after the bill is before the House for consideration.

Mr. HAMMOND, of Georgia. I simply wish to ask whether the sections you are amending have not been repealed under the act of June, 1880?

Mr. BAKER. I am not advised of that fact——

The SPEAKER. Debate cannot take place before the request for objections. Is there objection to the present consideration of this bill?

There was no objection.

Mr. BAKER. Mr. Speaker——

The SPEAKER. This bill has an amendment proposed by the committee.

Mr. BAKER. This is a unanimous report from the Committee on Commerce. [Cries of "Vote!" "Vote!"]

Mr. TOWNSHEND, of Illinois. Let the report be read.

Several MEMBERS. Let us vote on the bill.

Mr. TOWNSHEND, of Illinois. No harm can be done by having the report read, so that we may understand exactly what we are to vote on.

The SPEAKER. The report will be read, instead of the five minutes allowed for discussion.

The Clerk proceeded to read the report.

Mr. BAKER. Mr. Speaker, I insist that no one has a right to occupy my time.

Mr. CLYMER. It is the right of the House to have the report read.

Mr. BAKER. I am entitled to my five minutes if I choose to occupy it. If not, I can have the report read.

The SPEAKER. The reading of the report for the information of the House is proper under the rule in lieu of the five minutes' debate allowed.

Mr. BAKER. But I am entitled to have the report read myself, or to occupy the five minutes.

Mr. TOWNSHEND, of Illinois. I withdraw the request for the reading of the report.

The SPEAKER. The question is on the amendment submitted by the committee.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BAKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN S. CORLETT.

The State of Iowa being called,

Mr. CARPENTER asked consideration of the bill (H. R. No. 1102) granting a pension to John S. Corlett.

The SPEAKER. The bill will be read, after which objections will be asked for.

The Clerk read as follows:

Be it enacted &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, from the date of December 12, 1863, subject to the provisions and limitations of the pension laws, the name of John S. Corlett, late a teamster in the service of the United States, and pay him the pension of a private from the date of the amputation of his leg by reason of injuries received in line of duty in the service of the United States in the war of the rebellion.

The SPEAKER. This bill is on the Private Calendar. Is there objection to its present consideration?

Mr. McMILLIN. For one I shall object to the consideration of it unless it is amended so as to cut off the arrears provided for in the bill.

Mr. KEIFER. The general law does that.

The SPEAKER. Is there objection to the consideration of the bill. The Chair hears but one. The question is on the engrossment and third reading.

Mr. McMILLIN. Let us have the report read.

Mr. KEIFER. Mr. Speaker, I make the point of order that the gentleman from Iowa is himself entitled to have the report read if he so desires, otherwise he may occupy the entire five minutes, to the exclusion of the reading of the report, with an explanation of the terms of the bill. He alone has the right to demand the reading of the report.

Mr. McMILLIN. I have no desire to delay the passage of the bill. I simply suggest that an amendment be incorporated in it to cut off the arrears. If that be done I shall make no objection to its present consideration. Otherwise I feel compelled to do so.

Mr. KEIFER. If the demand of the gentleman to have the report read is allowed, that would cut off the five minutes to which the gentleman from Iowa [Mr. CARPENTER] is entitled.

The SPEAKER. The gentleman from Iowa has not availed himself of the five minutes to which he is entitled under the rule; and the Chair thinks the other members of the House have some rights.

Mr. KEIFER. Not under this rule. [Laughter.]

Mr. CARPENTER. I would like to say that bill passed both Houses in the Forty-fifth Congress, and only failed to become law because it did not reach the President in time to receive his signature.

Mr. BURROWS. I ask for the reading of that portion of the new rule which relates to the reading of the report.

The Clerk read as follows:

The member making the motion shall be entitled to five minutes for explanation of his bill, or, instead thereof, to the reading of the report accompanying the same, provided the reading of such report shall not exceed five minutes.

Mr. BURROWS. Now, I submit the rule confines the right to call for the reading of the report to the member calling up the bill, and that nobody else can call for it.

Mr. CLYMER. Then we may have to vote for a bill without being in possession of the least information in regard to it.

Mr. BURROWS. That is the rule. The rule is, the member calling up the bill may use five minutes in explanation of it, or instead thereof he may ask for the reading of the report to the extent of five minutes.

Mr. FRYE. This is a matter of some little importance. My judgment of the meaning of the rule is this: if the member who presents the bill desires to occupy five minutes, he has a right to occupy the five minutes to the exclusion of any right of any other member; but if he does not occupy the five minutes, then, under the old rule that

a member is entitled to call for the reading of the report, there being no practical conflict in that respect between this rule and the old one, the old rule would prevail, and I, as a member, would be entitled to have the report read to the extent of five minutes.

Mr. BURROWS. Will the gentleman allow me to ask him a question?

Mr. FRYE. Yes, sir.

Mr. BURROWS. Does not this new rule restrict the reading of the report to five minutes?

Mr. FRYE. It does.

Mr. BURROWS. Is it not therefore in conflict with the old rule?

Mr. FRYE. It is to that extent.

The SPEAKER. The Chair, however, thinks it was not the intention of the House in adopting this rule to give a right, five minutes, to one member of the House and if not exercised by such member to deny it to two hundred and ninety-two other members.

Mr. KEIFER. It seems the committee that reported the rule does not understand it as the House does.

Mr. HATCH. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HATCH. Have not the five minutes allowed to the gentleman who presents the bill been already exhausted?

The SPEAKER. The time taken has been used on the point of order, and should not come out of the time allowed by the rule. Does the gentleman from Tennessee [Mr. MCMILLIN] insist on the reading of the report?

Mr. MCMILLIN. Yes, sir; unless I can have the amendment I suggested, I want to know the reasons for the passage of this bill.

Mr. KEIFER. Do we understand the point of order to be overruled?

The SPEAKER. The Chair thinks if the gentleman calling up the bill does not avail himself of the time allowed by the rule the right should belong to any other member to have the report read to the extent of five minutes.

Mr. KEIFER. I give notice that at some time—not upon this bill—we will make that point of order, and appeal from the decision of the Chair.

The SPEAKER. The gentleman from Ohio is at liberty to do that now or hereafter.

Mr. KEIFER. I will not do it now.

The SPEAKER. The report will be read.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the petition of John S. Corlett, having had the same under consideration, respectfully present the following report:

We find from examination of the papers on file with your committee that the evidence in this case shows that John S. Corlett was sworn into the United States service, as a teamster, by G. E. D. Diamond, Government agent at Saint Louis, who took him from Saint Louis to Rolla, Missouri, where he joined a supply-train attached to a portion of the Army under General Curtis. From there he went to Batesville, Arkansas, thence to Helena; that on the way from Batesville to Helena, on or about July 1, 1862, his mule-team took fright and ran down a hill and against a bank in such a manner as to throw him between the mules and crush his leg. He was treated at the post hospital at Helena, and in the Saint Louis City Hospital, at which place his leg was amputated on December 12, 1863. The evidence shows that the injury which said Corlett received, and which caused the loss of his leg, was received while he was in the line of his duty and in the service of the United States, and that said injury was not received in consequence of any fault or negligence on his part.

A petition for the relief of said Corlett is signed by the judge of the eleventh district of Iowa, the circuit judge, and a large number of other highly reputable persons and prominent citizens of the district in which said Corlett resides.

Your committee are aware of the fact that there is nothing in the general pension laws providing for such a case as that presented herein, but we are reminded of the fact that in equity this petitioner should be entitled to the benefits of the provisions of the pension law. We are further reminded that there have been numerous cases of a similar nature admitted to pension, and in view of these precedents we report favorably upon the prayer of the petitioner, and recommend the passage of the accompanying bill (H. R. No. 1102) granting a pension to John S. Corlett.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CARPENTER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PUBLIC BUILDING AT LEAVENWORTH, KANSAS.

The State of Kansas was called.

Mr. ANDERSON. I call up the bill (H. R. No. 6013) for a public building at Leavenworth, Kansas, reported by the Committee on Public Buildings and Grounds, and referred to the Committee of the Whole House on the state of the Union.

Mr. Speaker, is it in order to make a statement before objection is called for?

The SPEAKER. The Chair thinks not. The rule provides the objections shall be in order after the reading of the bill.

Mr. ANDERSON. Is it in order to call for the reading of the report before objections are called for?

The SPEAKER. The Chair thinks not.

The bill was read.

The SPEAKER. The Chair desires to state in connection with this bill that heretofore by consent the House adopted an arrangement by which bills for public buildings should be taken up in their order on the Calendar. But the rule recently adopted, the Chair thinks, destroys that arrangement to the extent of allowing a member in this hour to call up such a bill. The positive rule operates as against the understanding. Is there objection to the consideration of this bill? [After a pause.] Six gentlemen rising object to the consideration of this bill.

Mr. ANDERSON. I make the point that two gentlemen were counted who were not rising to object. I will state there is no public building in that State now.

The SPEAKER. The gentlemen who rise to object are the gentleman from Ohio, [Mr. WARNER,] the gentleman from Wisconsin, [Mr. BRAGG,] the gentleman from Alabama, [Mr. SAMFORD,] the gentleman from Wisconsin, [Mr. BOUCK,] the gentleman from Tennessee, [Mr. SIMONTON,] and the gentleman from Pennsylvania, [Mr. CLYMER]—six. The Chair is correct.

Mr. ANDERSON. All right. I have got the names, which is what I wanted.

CAPTAIN SOMERVILLE NICHOLSON.

The State of Kentucky being called,

Mr. BLACKBURN called up the bill (S. No. 201) restoring Captain Somerville Nicholson, of the United States Navy, to the active list, said bill being on the Speaker's table.

The bill was read, as follows:

Be it enacted, &c., That the President of the United States be, and is hereby, authorized to restore Somerville Nicholson, now a captain on the retired list of the Navy, to the active list, to take rank next after Clark H. Welles: *Provided*, That no claim for arrearages of pay shall accrue to said Nicholson by reason of restoration under the provisions of this act.

The SPEAKER. Is there objection to the consideration of this bill at this time?

Mr. CALKINS. Let us hear the report read.

The SPEAKER. Objection to the bill, if made at all, must be made immediately after the bill is read.

Mr. PAGE. I suggest that the gentleman from Kentucky [Mr. BLACKBURN] be allowed to explain the bill.

The SPEAKER. That is not in order at this time under the rule. Is there objection to the consideration of this bill? [After a pause.] No gentleman rises to object.

Mr. BLACKBURN. I have no objection to the reading of the report.

The SPEAKER. There is no House report at the desk, this being a Senate bill on the Speaker's table. Will the gentleman from Kentucky send up the Senate report?

Mr. BLACKBURN. I do not have it here. I will state that this bill passed the House in the last Congress by more than a three-fourths vote, but failed to pass the Senate. It has now passed the Senate of this Congress, and that is the indorsement with which it comes before the House. A similar bill has been reported favorably to this House by the Committee on Naval Affairs through the gentleman from Florida, [Mr. DAVIDSON.]

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

Mr. BLACKBURN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARINE HOSPITAL IN NEW ORLEANS.

The State of Louisiana was called.

Mr. ACKLEN. I call up for consideration House bill No. 6196, to provide for the establishment of a marine hospital in New Orleans, Louisiana. The bill is now in Committee of the Whole on the state of the Union, and was reported unanimously from the Committee on Commerce.

The bill was read.

The SPEAKER. Is there objection to the consideration of this bill at this time? [After a pause.] Seven gentlemen rise and object, which is a sufficient number.

STEPHEN P. BENTON.

The State of Maine was called.

Mr. FRYE. At the request of my colleague, [Mr. REED,] I call up from the Private Calendar House bill No. 5677, granting a pension to Stephen P. Benton.

The bill was read, as follows.

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Stephen Porter Benton, a soldier of the war of 1812, at the rate per month as provided by the act approved March 9, 1878, for survivors of the war of 1812.

The SPEAKER. Is there objection to the consideration of this bill at this time? [After a pause.] Only two members rise to object; not a sufficient number.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FRYE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was ageed to.

JAMES MONROE HEISKELL.

The State of Maryland was called.

Mr. HENKLE. I ask to take from the Speaker's table for consid-

eration at this time Senate bill No. 1191, for the relief of James Monroe Heiskell, of Baltimore City, Maryland.

The bill was read, as follows:

Be it enacted &c., That James Monroe Heiskell, of Baltimore City, Maryland, be, and he is hereby, relieved from the operation of section 1218 of the Revised Statutes of the United States, being in chapter 1, title 14 of said Revised Statutes.

The SPEAKER. Is there objection to considering this bill at this time?

Mr. SPRINGER. I do not think we can understand what the bill is from the reading. I would like to have some explanation of it.

The SPEAKER. Debate is not now in order.

No objection was made to the consideration of the bill.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. HUTCHINS. What is the provision of the statute to which this bill relates?

Mr. HENKLE. It is section 1218 of the Revised Statutes, and this bill is intended to remove political disabilities and to make the party eligible for appointment in the Army or Navy.

Mr. CONGER. I did not rise to object to this bill, but I desire to state that I hope the action of the House at this time will not be cited hereafter as a precedent for other cases.

The bill was ordered to a third reading, and it was accordingly read the third time.

The question was upon the passage of the bill; and being taken, upon a division, there were—ayes 129; noes 3.

No further count being called for, the bill was passed.

Mr. HENKLE 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.

IMPORTATION OF SHIP-BUILDING MATERIALS.

The State of Massachusetts was called.

Mr. BOWMAN. I desire to call up for consideration at this time a bill which is now on the Calendar of the Committee of the Whole, reported from the Committee on Ways and Means. It is House bill No. 5989, regulating the importation of raw materials to be manufactured in the United States and used in the construction and repair of vessels employed in the foreign trade, including the trade between the Atlantic and Pacific ports of the United States, or built for foreign account.

The SPEAKER. The bill will be read.

The bill was read.

Mr. MILLS. It seems to me that that bill involves a change of the system of the tariff laws, and is too important a bill to be considered in this way.

ORDER OF BUSINESS.

Mr. CLYMER. I call for the regular order. I believe the hour has expired.

The SPEAKER. The hour for business under this call has expired, and the bill called up by the gentleman from Massachusetts [Mr. BOWMAN] will go over until the next hour for such business.

Mr. BRIGHT. I move that the House now go into Committee of the Whole on the Private Calendar.

PERSONAL EXPLANATION.

Mr. CHITTENDEN. I rise to a question of personal privilege.

The SPEAKER. The gentleman will state it.

Mr. CHITTENDEN. I rise to a question of personal privilege. During the debate yesterday on the river and harbor bill, I ventured to ask the chairman of the Committee on Commerce [Mr. REAGAN] a question, with perhaps the unseemly audacity of suggesting that he could not answer it. His answer as printed in the RECORD of this morning is a violent impeachment of my sagacity [laughter] and a damaging imputation of ignorance on my part. [Renewed laughter.] Since yesterday I have been studying geography, and I propose now to put the boot on the other foot. I ask the Clerk to read the imputation made by the gentleman as printed in the RECORD of this morning.

The Clerk read as follows:

Mr. REAGAN. I can answer the gentleman if he will allow me. I will tell him that Sumpawamus Inlet is on East River just within the boundary of the upper part of the city of New York. It is for the improvement of that inlet, and I am sorry to find the gentleman from New York so ignorant of the geography of his own city.

Mr. CHITTENDEN. Mr. Speaker, the honorable chairman of the Committee on Commerce and this whole House will be astonished to learn that that inlet with the Indian name is not within twenty-five, thirty, or forty miles of the city of New York. [Laughter.] It is not on the East River. It is away down below Babylon, [laughter,] on the Long Island shore, looking off upon the Atlantic Ocean. I protest that thus my original suggestion is brought to a final demonstration—that there was not a man on the Committee on Commerce who knew where Sumpawamus Inlet was; and, Mr. Speaker, in conclusion, I appeal, if any appeal is necessary in confirmation of my statement, to my colleague [Mr. COVERT] to indorse me.

Mr. COVERT. I desire to say to my colleague and the House that the inlet in question is within the collection district of New York City. It is on the coast of Long Island, but it is within the collection district of New York City; and it was very reasonable that the chairman of the Committee on Commerce, giving the hasty examination he was able to give to this matter when it was drawn in question, should say that the inlet was near the city of New York, which is true in point of fact.

Mr. HUMPHREY. If in order, I move a committee of investigation on this subject. [Laughter.]

ORDER OF BUSINESS.

The SPEAKER. The gentleman from Tennessee [Mr. BRIGHT] moves that the House resolve itself into Committee of the Whole for the consideration of business on the Private Calendar.

Mr. COX. I raise the question of consideration as against private business.

The SPEAKER. The object the gentleman has can be reached by the House voting down the motion.

Mr. COX. I desire to have the House understand that if this motion be voted down——

The SPEAKER. The rule provides that in order to dispense with the consideration of private business on Friday a two-thirds vote shall be required; and a motion of that sort would properly precede the motion of the gentleman from Tennessee.

Mr. CARLISLE. In order to test the sense of the House, I submit the motion to dispense with the private business for to-day. This will enable the House to decide the question directly.

The SPEAKER. The gentleman from Kentucky [Mr. CARLISLE] moves to dispense with private business for to-day. This requires a two-thirds vote.

Mr. SPRINGER. I rise to a parliamentary inquiry. If the House should refuse to agree to the motion of the gentleman from Tennessee to go into the Committee of the Whole on the Private Calendar, would not the question then be on dispensing with private business so as to enable the House to go on with general business?

The SPEAKER. There is an evident conflict between the rules touching this subject. The Chair has always given precedence on Friday to the motion to dispense with private business, that motion requiring a two-thirds vote; but the Chair has no knowledge how he can enforce the consideration of private business if a majority of the House should be unwilling to consider it.

Mr. PRICE. Why, Mr. Speaker, Rule XXVI provides in specific terms that private business shall be considered on Friday unless by a two-thirds vote it be dispensed with.

The SPEAKER. The Chair recognizes that fact; and he has entertained the motion of the gentleman from Kentucky in obedience to that rule. But if that motion should not be adopted, what power has the Chair to enforce the consideration of private business against the will of a majority of the House?

Mr. PRICE. I think the rule itself settles the question.

Mr. KEIFER. If the House should refuse to dispense with private business, it would have to go on with it or do nothing.

Mr. VALENTINE. That is the rule.

Mr. SPARKS. The motion to go into Committee of the Whole to proceed to the consideration of bills on the Private Calendar requires of course a majority vote for its adoption; and if the majority vote is against it, that defeats the motion, of course.

Mr. CARLISLE. Yet the rule says there must be a two-thirds vote in order to dispense with private business; and for the purpose of relieving the House from the very dilemma in which it would find itself, if the motion of the gentleman from Tennessee were first voted on and negatived, I submit the direct motion to dispense with the consideration of private business.

The SPEAKER. That is the natural and reasonable course of proceeding, the Chair thinks. Rule XXIV, section 6, clause 3, reads:

On Friday of each week, after the morning hour, it shall be in order to entertain a motion that the House resolve itself into the Committee of the Whole House to consider business on the Private Calendar; and, if this motion fail, then public business shall be in order as on other days.

Mr. BRAGG. It seems to me that another consideration enters into this question. The regular motion being to proceed to the consideration of bills on the Private Calendar, if the House should refuse to do so then the next question would be to proceed to the consideration of bills of a private nature not on the Private Calendar, which would give preference to House bills, private in their nature, which have been made special orders. These, I submit, would be entitled to come in and take precedence over any other business.

The SPEAKER. The Chair will consider that view of the question, if that point should be reached in this controversy.

The question being taken on the motion of Mr. CARLISLE to dispense with the consideration of private business, it was agreed to, two-thirds voting in favor thereof.

The SPEAKER. The Chair now recognizes the motion of the gentleman from Tennessee, [Mr. BRIGHT,] that the House resolve itself into the Committee of the Whole House on the Private Calendar.

The House divided; and there were—ayes 95, noes 65.

Mr. SPARKS demanded tellers.

Tellers were ordered; and Mr. SPARKS and Mr. BRIGHT were appointed.

The House again divided; and the tellers reported ayes 91, noes 69.

ENROLLED BILL AND JOINT RESOLUTIONS.

Pending the announcement of the result of the vote, by unanimous consent the following business was transacted:

Mr. WARD, from the Committee on Enrolled Bills, reported that

they had examined and found truly enrolled a bill and joint resolutions of the following titles; when the Speaker signed the same:

A bill (H. R. No. 6599) to change the time for holding circuit and district courts of the United States for the western district of Virginia, held at Danville, Virginia;

Joint resolution (H. R. No. 83) granting condemned cannon to the Morton Monumental Association;

Joint resolution (H. R. No. 362) to authorize the printing of 50,000 copies of special report of the Commissioner of Agriculture, relative to diseases of swine and infectious and contagious diseases incident to other domestic animals; and

Joint resolution (H. R. No. 372) authorizing the Public Printer to print reports of the United States Fish Commissioner upon new discoveries in regard to fish culture.

IRISH NATIONAL LAND LEAGUE.

The SPEAKER laid before the House resolution of the Roxborough branch of the Irish National Land League expressing the thanks of that association to the Congress of the United States for the sympathy expressed for the suffering of the Irish people; which was laid on the table.

FIRST COMPTROLLER'S DECISIONS.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting copies of the decisions of the First Comptroller; which were laid on the table, and ordered to be printed.

TORPEDOES.

The SPEAKER also laid before the House a communication from the Secretary of the Navy in answer to the resolution of the House of January 28, 1881, regarding torpedoes; which was referred to the Committee on Naval Affairs.

CONFIRMED SUSPENDED PRE-EMPTION ENTRIES.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting lists of suspended pre-emption entries confirmed by board of equitable adjudication for the year ending June 30, 1880; which was referred to the Committee on the Public Lands.

SURVEY OF EMPIRE BAY AND SWAN CREEK.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report of the survey of Empire Bay and Swan Creek; which was referred to the Committee on Commerce, and ordered to be printed.

TALLAPOOSA RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a report of the survey of Tallapoosa River; which was referred to the Committee on Commerce, and ordered to be printed.

LEAVE OF ABSENCE.

Mr. MCKENZIE, by unanimous consent, was granted indefinite leave of absence on account of sickness in his family.

STATUE OF JACOB COLLAMER.

Mr. STEPHENS. I wish to make an announcement and a request. The delegation from Vermont wish to take up at some time the resolution from the Senate accepting the statue of Jacob Collamer presented by that State. I request by unanimous consent that resolution be taken up to-morrow immediately after the morning hour.

The SPEAKER. After the hour under the new rule.

Mr. STEPHENS. Yes, sir.

The SPEAKER. And that the ceremonies attending the acceptance of the statue shall then be proceeded with.

Mr. STEPHENS. Yes, sir; and they will not probably take more than an hour.

Mr. ATKINS. Why not do it to-day?

The SPEAKER. The House has already resolved itself into Committee of the Whole House on the Private Calendar.

Mr. REAGAN. I hope it will be done to-day, for if it goes over until to-morrow I must object.

The SPEAKER. Is there objection?

Mr. REAGAN. Yes, sir; and I demand the regular order.

Mr. ATKINS. I ask the gentleman to agree to fix the time at three o'clock to-day.

Mr. STEPHENS. I cannot be here at three o'clock.

Mr. ATKINS. Then do it now.

Mr. STEPHENS. The delegation is not ready now.

Mr. BRAGG. I object to the consideration of the subject now.

ASA WEEKS.

The House resolved itself into Committee of the Whole House on the Private Calendar, Mr. MCMILLIN in the chair.

The CHAIRMAN. The first business on the Private Calendar is a bill (H. R. No. 3784) to compensate Asa Weeks for his labor and expenses in perfecting torpedoes, torpedo machinery, and the art of torpedo warfare for the sole and exclusive benefit of the United States, and for other purposes.

Mr. HARRIS, of Massachusetts. I move, by unanimous consent, that bill be passed over for the present.

There was no objection, and it was ordered accordingly.

JANE STOUT.

The next business on the Private Calendar was the bill (H. R. No. 4257) granting a pension to Jane Stout.

The bill, which was read, authorizes and requires the Secretary of the Interior to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Jane Stout, of Schuylkill County, Pennsylvania, widow at the time of his death of Robert Divine, deceased, who was a private in Company E, Forty-eighth Regiment Pennsylvania Volunteers, and pay her a pension of $8 per month from and after the death of the said Robert Divine, her late husband.

Mr. BROWN. I move to strike out the words "and pay her a pension of $8 per month from and after the death of the said Robert Divine, her late husband."

Mr. RYON, of Pennsylvania. I have no objection to that amendment.

The amendment was agreed to.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 4257) granting a pension to Jane Stout, have had the same under consideration, and beg leave to make the following report:

Robert Divine was a private in Company E, Forty-eighth Regiment Pennsylvania Volunteers, a regiment raised in Schuylkill County, Pennsylvania, at the commencement of the war of the rebellion, and continued in service until the close of the war, when it was mustered out of the service. The regiment was engaged in many battles, many of them the most obstinately contested battles that were fought during the war. Its ranks were frequently decimated in action. No regiment in the Union Army saw more active service in the field and none stood higher or achieved more distinction for bravery and courage.

Robert Divine was a faithful and brave soldier, and enjoyed to a high degree the confidence and respect of the officers of the company and regiment to which he belonged. He was especially conspicuous for bravery in the battles of the Wilderness, Spottsylvania, North Ann River, Cold Harbor, and in front of Petersburgh.

While the Union forces were in front of Petersburgh, Divine was connected with the detachment employed in driving tunnels and laying mines to blow up the fortified defenses of that city. While engaged in these operations he was constantly exposed to dampness and the inclemency of the weather, and contracted disease which he thought and said to his captain would prove fatal.

In the summer of 1864, while sick as aforesaid, he secured a furlough and went home to his family at New Philadelphia, near Pottsville, Schuylkill County, Pennsylvania, reported to Dr. Howell Halberstadt, United States surgeon at Pottsville, and received medical treatment from him, and also Dr. Heidenright, a medical practitioner near New Philadelphia. Dr. Heidenright notified Captain Bowen, the provost-marshal of that district, and the marshal agreed that Divine should remain at home until he had so far recovered from sickness that it would be perfectly safe for him to return to his command, no matter how long it might be beyond the time granted in his furlough.

When Divine arrived at home his wife, Jane Divine, was dangerously sick with typhus fever, and three of his small children were sick with small-pox. Divine never recovered his health, but continued ill notwithstanding he received faithful medical attention.

On the 7th of November, 1864, in violation of the previous promise of the provost-marshal, Divine was taken from his sick bed, charged as a deserter, and confined in the guard-house at Pottsville, but transferred from there to the United States post hospital at Pottsville. He remained in the hospital sick with pneumonia until the 15th of November, when, by order of the provost-marshal, he was sent to his command, then in the vicinity of Richmond, Virginia, under arrest. His captors succeeded in getting as far as Alexandria, Virginia, with him, when they were obliged, on account of his sickness and exhaustion, to leave him, where he very soon after died. In fact it may be safely assumed, under the sworn testimony in the case, he was virtually in a dying condition when he was taken from the hospital at Pottsville.

After the death of her husband, Jane Divine, his widow, made application to the War Department for the back pay and bounty which she supposed to be due her late husband, and on the 24th day of October, 1865, received notice that her claim was disallowed upon the ground that the record showed that her late husband was a deserter, was arrested as a deserter, and died before he reached his command. Mrs. Divine, finding herself thus left destitute, with a family of small, helpless children solely dependent upon her labor for support, accepted an offer of marriage from a man by the name of Stout. Within two years after her marriage with Stout he was accidentally killed in the mines, and she was left again to struggle for the support of her children.

She comes now to the Congress of her country and asks, in consideration of the service of her husband and the father of her children, for a pension, which the justice of the case would have given her years ago.

The committee are of the opinion that the claimant should be granted a pension, and they recommend that the accompanying bill be passed.

Mr. BREWER. Mr. Chairman, I do not rise for the purpose of opposing the passage of this bill, but merely to call the attention of the committee to the fact that by the passage of this bill we will establish a new precedent.

The Committee on Pensions in the Forty-fifth Congress considered the question whether they should put upon the pension-roll the widows of deceased soldiers who had remarried, but no action was taken at that time.

Now, I suppose there are 50,000 cases of a like character in the United States to-day, and if we are to open up all these cases it seems to me we should pass a general bill to cover all of them, and not make this an exceptional case. I do not dispute the proposition that this lady is entitled to a pension if it was not for the fact that she had remarried after the death of her husband; but when she did remarry, under the present pension law she forfeits her right and has no right to a pension; and it is also true that if she was drawing a pension up to the time of her marriage it would have ceased from that day. This proposition, therefore, simply establishes a new precedent, and if the committee or if the House is desirous of doing that, and shall vote for this bill, I think it is right that they should know exactly what the effect of it will be. My opposition to it is on the ground, not of the merits of the bill itself, of which I know nothing, but because in my judgment we should not take this claim and make it an exceptional case; and if we are to do it now for this one case, then that whole class of citizens who come under provisions similar to this

would have equal grounds for claiming and receiving relief. I simply suggest this to gentlemen who are advocating the passage of this bill.

Mr. BROWNE. Mr. Chairman, I desire to move a further amendment, to insert:

Provided, That this provision shall cease when the claimant of the present pension shall remarry.

Mr. RYON, of Pennsylvania. That amendment, I will suggest, is wholly unnecessary, because the pension would cease in any event if the claimant remarried. She is a widow now, and——

Mr. BROWNE. That is true; but when the act of Congress gives a pension that peculiar clause of the law does not apply. Under the ordinary pension laws if a pension is granted by the Department it would cease if the claimant remarried. But a pension by a special act of Congress continues; it does not cease.

Mr. HAZELTON. That provision of the pension laws only applies to claims granted by the Pension Office.

Mr. BROWNE. That is what I understand. But if the pension is granted by act of Congress it places it upon a different footing.

Mr. RYON, of Pennsylvania. I have no objection to the amendment which the gentleman suggests.

Mr. HENDERSON. I wish to inquire whether this is not a bill to grant a pension to a widow who has remarried since the death of her first husband, who was a soldier; and if it is——

Mr. RYON, of Pennsylvania. If the gentleman from Illinois will allow me to answer his question I will give him the information, for I am familiar with all the facts in this case. This lady now applying for a pension was a widow who remarried after the death of her first husband. After the death of her husband who was a soldier, she made an application for a pension, but her application was rejected in the Pension Office. Finding herself in a destitute condition, with a family of little children to rear, she accepted an offer of marriage from this man Stout and was married to him. Within less than two years after that marriage, this man was killed in the mines. She has remained single ever since, struggling as best she may to rear her children.

Mr. BROWNE. Will the gentleman allow me to ask him a question?

Mr. RYON, of Pennsylvania. Certainly.

Mr. BROWNE. I would like to ask why the bill, then, is not made in favor of the infant children, who are clearly entitled to a pension if any one is.

Mr. KEIFER. I would like to inquire if they do not receive a pension now?

Mr. RYON, of Pennsylvania. No, sir.

Mr. COFFROTH. They are all over sixteen years of age?

Mr. RYON, of Pennsylvania. They have never applied for a pension.

Mr. BREWER. Let me state——

Mr. HENDERSON. I believe I have the floor.

Mr. BREWER. I simply want to answer a question. I hope the gentleman will yield to me for a moment. The gentleman from Ohio asks if the children were not receiving a pension. I answer they are not receiving a pension, and this is the reason, as the report shows: because the widow was unable to procure a pension for herself, or was refused on the ground that the records of the War Department showed that her husband was a deserter from the Army, and hence she was denied a pension. Of course she being denied a pension the children could not obtain it, the same reason applying also to them.

Mr. HENDERSON. Mr. Chairman, I have understood it to be the policy of our Government not to grant pensions to the widows of soldiers any longer than they remain such widows, and if there has been any precedent heretofore where a pension was granted to a widow who had remarried after the death of her first husband, he being a soldier, I am not aware of it. But I do know there are many cases like this in the country, and if we are going to establish a principle by granting a pension in such a case, I think in justice to all parties it should be done by the establishment of a general law. And I am opposed to establishing any such precedent until we have first decided whether we will make other widows who have remarried since the death of their first husbands and again become widows pensioners, whether we will establish a rule covering such cases, and grant pensions to all alike, making no discrimination or distinction.

Mr. COFFROTH. I would like to ask the gentleman a question. Suppose this woman had been put upon the pension-rolls by the act of the Commissioner of Pensions on her first application, and had remarried, and her husband had died, would not she be restored to the rolls?

Mr. HENDERSON. I think not; but if so, I have never understood the law. On the contrary, I believe it has been the uniform policy of the Government to refuse pensions in all cases after a remarriage.

Mr. RYON, of Pennsylvania. I desire to say a word now in reply to what has been said by the gentleman from Illinois [Mr. HENDERSON] and in explanation of this case.

The record shows, and it is now before this House, that the husband of that woman served more than three years in the Army of the United States, was a brave soldier, and fought in all the campaigns between the Potomac and Richmond. It shows that he lost his life while in the service of the Government; and that he left a destitute widow and children dependent upon the widow. And now if my friends upon the other side of the House, with a case that is as meritorious, that appeals as deeply to our feelings of humanity as this case does, can oppose such a bill as this, then I can see no merit in any special legislation that may be accomplished by this Congress to relieve that class of claimants.

Mr. THOMAS. Will the gentleman allow me to ask him a question?

Mr. RYON, of Pennsylvania. If I have but three or four minutes I cannot yield; because I desire to call the attention of the House to a circumstance connected with this case, and a part of the history of this country, with which every gentleman on this floor is familiar. This man was sick and furloughed. He went home to a sick family and was sick in his family until he was arrested and brought back to the city of Alexandria where he died. Now, sir, it is in proof among the papers submitted that by some means or another his name went upon the record as a deserter. I know how that happened. When he went home he was placed in charge of a Government surgeon. That surgeon said and the provost-marshal said that he should remain there, although it exceeded the period of time in his furlough, until his health had been restored. But, sir, we had in that country a class of men, as you had everywhere, that were seeking the twenty-five dollar bounties that were given by the Government; and they were industriously looking out every man who had exceeded by one hour the furlough granted him by his commanding officer. They were men of that class that seized this man in his own house after the surgeons, Drs. Habberstadt and Carpenter, and the provost-marshal, Captain James Bowen, had his case under consideration, and had told his doctor, Dr. Heidenright, that he should remain at home until he could safely return to the Army. But these men went to his house and took him out from a sick bed and brought him to the town of Pottsville; and he was sent by order of the provost-marshal into the hospital there, in charge of Dr. Habberstadt, where he remained some eight days. Then these men took him again from a sick bed in the hospital and got him as far as the city of Alexandria, and he died on their hands; the whole constituting a case of inhumanity such as I never witnessed or heard of in all my career.

There are in possession of the Committee on Invalid Pensions letters from Captain Winlack, the captain of that company, asserting again and again it was a wonder to him how this man got on the records here as a deserter. Those letters are among the papers referred to the committee. Captain Winlack again and again tried to procure a pension for this widow woman. He again and again asserted that this man was no deserter. The reason why that went on the records was that when those men came here for their blood-money they had to return the man as a deserter, and they did return him as a deserter after they had left him in the hospital in the city of Alexandria to die.

This is the case which is presented. This woman applies for a pension with this record staring her in the face, and she comes to the Congress of her countrymen and she asks that she, as the widow of a brave soldier that spent three years and a half at the front doing battle for his country, shall not be turned away from the Halls of Congress without that little pittance which may ease and console her declining years.

Mr. THOMPSON, of Iowa. Will the gentleman from Pennsylvania yield to me for a question?

Mr. RYON, of Pennsylvania. Yes, sir.

Mr. THOMPSON, of Iowa. How could those men return this soldier as a deserter unless the captain approved the report on which his name appeared as a deserter?

Mr. RYON, of Pennsylvania. I do not understand the *modus operandi* at all. But I do know there are letters which were referred to this committee, and which are among the records in this case, from Captain Winlack, the captain of that company, who says he never returned this soldier as a deserter; that, on the contrary, he knew he was not one.

Mr. HUMPHREY. Will the gentleman allow me a word?

Mr. RYON, of Pennsylvania. Yes, sir.

Mr. HUMPHREY. I want to state, Mr. Chairman, there are hundreds of cases where men were got away from their company in time of battle into hospitals, were lost sight of, and were returned as deserters. I can show any number of such cases in the records of the War Department to-day.

Mr. THOMPSON, of Iowa. My question was how they came to return him as a deserter.

Mr. HUMPHREY. When they did not know anything about it they returned the man as a deserter.

Mr. HENDERSON. I wish to say to the gentleman from Pennsylvania [Mr. RYON] that I do not antagonize this bill on its merits at all. I make no opposition to the pension being granted in this individual case. All I desire the House and the committee to understand is whether we are going to enter upon a new departure in regard to the granting of pensions to the widows of soldiers who have remarried.

Now, I stated that I understood the rule to be that whenever the widow of a soldier receiving a pension married again her pension ceased. I know that since I have been a member of this House there has been opposition to the granting of a pension to a widow under such circumstances, although her second husband had died and she was the second time a widow. I have three cases in my district just as hard as this, just as much entitled to a pension as I think this

widow is, because they are destitute and are the widows of soldiers who served their country faithfully; but after the death of the soldier, their first husband, they remarried, and then again became widows. Now, we ought to provide a general law for these cases, it seems to me, if we are to admit at all the principle of granting pensions to widows of soldiers who marry a second time.

Mr. HUMPHREY. Why not grant the pension up to the time of the second marriage?

Mr. HENDERSON. I have no objection to that. I only desired to call attention to the precedent we were about to establish.

Mr. HUMPHREY. I understand that is all there is in this case.

Mr. BREWER. I was perhaps the first who made the suggestion, and I wish to state my reasons for so doing. During the last four years I have received many letters from persons situated similar to the person in this case, and I have invariably written to them that Congress had refused to grant pensions in cases of this kind. If this bill had passed without my raising this point I felt that I should be very much embarrassed when I met those persons again. I know it has been against the policy of this House, as it has been against the policy of the Senate, during the last four years, to grant a pension in any case to the widow of a soldier who had remarried. There is no law authorizing it.

I wish to state this further fact, that the very moment the widow of a soldier remarries she ceases to be the widow of that soldier, and thereby relinquishes her claim to the pension to which she might before have been entitled. There are, of course, many cases where the widows of soldiers are receiving pensions. When they voluntarily enter again into the marriage relation they thereby declare that they prefer that relation rather than the amount of pension they are receiving. They enter into that relation voluntarily. When they do so, if the widow was previously drawing a pension, the orphan children of such widow draws the pension to which she was entitled until they respectively reach the age of sixteen years.

As I have already stated, the widow in this case, according to the rule of the Pension Office, was not entitled to a pension. It might be that the records in the Department were incorrect; I apprehend that may have been the case. I make no assertion that the widow was not at the time entitled to a pension. But if she had been receiving it, under the laws of the country she could not continue to receive it after she remarried.

Now, if we pass this bill, what can I say to my constituents at home in my district who have appealed to me to present their bills here in just such cases as this, just as meritorious, and to whom I have said that it was contrary to the policy not only of the House but of the Senate? I feel that I would be embarrassed if I did not raise my voice here and present the question for the consideration of this committee.

If we are to grant pensions simply as a matter of sympathy, as my good friend from Pennsylvania [Mr. RYON] seems to argue here, I know a thousand persons in my own State who are undoubtedly in as poor circumstances, having large families of children to support, as is the person to which this bill relates. Let us have a fixed policy. If the Committee on Invalid Pensions thinks this is a policy which should be adopted by the Government, why have they not during the two years of this Congress presented a general bill to this House, so that all might be treated alike?

Mr. COFFROTH. If there had been any law which would have authorized the granting of this pension, there would have been no necessity for this widow to come to Congress. The Committee on Invalid Pensions took into consideration the fact that this was a case for which the law granted no relief.

Mr. BREWER. I understand your position, and I am not controverting it.

Mr. COFFROTH. And the committee in examining the cases presented before them, if they find that they are such cases as should receive relief, report bills placing them on the pension-roll, as a gratuity.

Mr. HAZELTON. Why do you not report a general bill?

Mr. COFFROTH. We cannot report any general law which will cover all these cases. We have to report upon each case presented to us.

Mr. RYON, of Pennsylvania. There is not a case presented to this House for action which is provided for by general law.

Mr. BREWER. I have defined my position, and do not desire to take up the attention of the committee further.

Mr. KELLEY. I desire to say that I know nothing of the merits of this particular case. I find myself in the position of the gentleman from Michigan, [Mr. BREWER.] I have been writing to remarried women that the law prohibits the granting of pensions to them. I have even gone beyond what the gentleman from Michigan [Mr. BREWER] says he has done: I have endeavored to illustrate to them the wisdom of such a provision of law, by showing that there would be no justice in pensioning a man who had not himself been in the war, simply because he had married the widow of one who had been in the war.

I cannot for my life see where the end will be if we determine that we will pension every man who marries the widow of a worthy soldier.

Mr. BREWER. This proposition is to pension the woman when she has become a widow again.

Mr. KELLEY. The gentleman from Michigan suggests that this bill proposes to pension the woman when she has become a second time a widow. But she is no longer the widow of a soldier; she is the widow of another man. She is not the Widow Smith, if Smith was the name of the soldier, but is the Widow Jones, if the second marriage was with Mr. Jones. I trust, be the merits of this particular case what they may, that the House will vote down this bill, and not involve in the suspicion of falsehood or neglect all those Representatives here who have fairly and frankly stated to applicants for pensions the law and the principle upon which it rests.

The CHAIRMAN. The question is upon the amendment of the gentleman from Indiana, [Mr. BROWNE,] which will be read.

The Clerk read as follows:

After the word "volunteers" insert:

"*Provided*, The pension shall cease upon the marriage of the said Jane Stout."

The CHAIRMAN. The gentleman from Pennsylvania has signified his willingness to accept the amendment. If there be no objection it will be considered as adopted.

There was no objection.

Mr. THOMAS. I submit the amendment which I send to the desk.

The Clerk read as follows:

Strike out all after the word "the," in the fifth line, and insert "names of the children of Robert Divine, deceased, who are under the age of sixteen years;" so that the bill will read:

"*Be it enacted*, &c., That the Secretary of War be, and he is hereby, authorized and required to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of the children of Robert Divine, deceased, who are under the age of sixteen years."

Mr. THOMAS. I desire to say a few words in support of this amendment. All pensions allowed by special act of Congress are based upon equities arising out of the service of the soldier. The widow of a deceased soldier succeeds to the equities existing in his favor at the time of his discharge from the service or from his death. Those equities are released by the widow upon her remarriage, and they descend then to the children of the deceased soldier who may be at that time under the age of sixteen years. It is claimed here that this soldier was not pensioned in his lifetime, in fact that he died while in the service. It is claimed that the widow has not been pensioned because there was an entry of "desertion" opposite his name, an entry wrongfully made, it is alleged, and that it was wrongfully made I have no doubt. That is stated as the obstacle which prevented the pensioning of the widow. Yet there are equities in this case. In whose favor? In favor of the minor children. Then I say, if the liberality of Congress is to be invoked in this case, let it be invoked in favor of those children who have inherited the equities arising from the distinguished and gallant services of their father, the deceased soldier, and not in favor of the widow of another man, she having voluntarily forfeited her equities by remarrying.

Mr. RYON, of Pennsylvania. Mr. Chairman, I have no doubt that the gentleman from Illinois [Mr. THOMAS] is actuated by the purest motives of patriotism and earnestly desires to pension the children of the deceased soldier Divine. But, sir, he overlooks one important fact—that Divine died in 1864, and as a matter of course no child of his could now be under the age of sixteen. Then, if there are no equities in the case, as the gentleman says, he can vote against the bill. But I do not believe in a surreptitious attempt to defeat a bill by indirection. I never believe in insinuations; I believe in direct acts. If the gentleman wants to face the principle of hostility to this bill which provides for pensioning that widow, he has a perfect right to do it; and I am the last man in the world to challenge his motives. But he has no right, while professing to favor the principle of the bill, to defeat it by an amendment which would necessarily preclude the payment of any pension.

This widow labored for years to rear those children—to give them by her hard work, her daily and nightly toil, that which her Government withheld from her upon a record that did not speak the truth. If there ever was a meritorious measure, one appealing to the Representatives of the people in the Congress of the United States, it is a measure in favor of the widow of a man who gave his life to save his country, that widow having toiled for years for the support of her family, and having been denied by her Government that remuneration which her husband earned. It is upon this basis that I place this claim.

Gentlemen say that this woman forfeited her right to a pension by voluntarily remarrying. If she had obtained her pension from the Government and then remarried, I would admit the force of the argument. But she came here for a pension, and it was denied her. Then, surrounded by eight helpless children, she married, not voluntarily, but because she found it necessary to procure for those children the means of an honest living.

Mr. EWING. I hope the gentleman from Illinois [Mr. THOMAS] will withdraw his amendment. It is mere mockery. This soldier died during the war, and as a matter of course there are *now no* children of his under sixteen years of age.

Mr. THOMAS. Then, Mr. Chairman, if there are no children of his under sixteen years of age, I submit that all equities in this case have lapsed, and the parties claiming here are at the end of their string. The placing of this widow upon the pension list, however meritorious she may be, would be the institution of a civil list—a thing that has not been known thus far in this country, and a thing which every member of this House should set his face against.

No man on this floor is more in favor of granting pensions in meritorious cases than I am. Having been a soldier myself, I know exactly what it is to render service to the country in time of war. I think that all meritorious cases should be favorably passed upon without quibble and without delay. But granting pensions to meritorious soldiers, or to the widows and children of meritorious soldiers, is quite a different thing from granting a pension by special act of Congress to "Becky Sharp" simply because "Bill Jones" was a good soldier.

Mr. HUMPHREY. Mr. Chairman, just a word on this bill. The principle involved is an important one. In all the Western States the widow, on the death of her husband, succeeds to the homestead of forty or eighty acres, as the case may be, and it is subject to the demand of no debt so long as she remains in widowhood; but the moment she remarries it goes to the heirs, and is subjected to the payment of debts and the appointment of an administrator to settle the estate. The same principle arises in this case. This widow by her own act deprived herself of the benefit under the pension law. Whatever the circumstances may have been under which she remarried, the fact is that by her own act she forfeited the right given to her under the pension laws.

The principle is an important one. If we were to give this widow our sympathy, then we would vote to her this amount of money; but in my district, and every other district represented on the floor of this House, there are probably some whom we have been compelled to tell that by their remarriage they have deprived themselves of the benefit accorded to them by the pension law. If we do not abide by the pension law as it now stands, the result would be to set us afloat on an ocean of doubt and difficulty. Not to abide by the precedents which have been established would be to carry us too far. We might not be able to retrace our steps. The result inevitably would be the expenditure of a large sum of money in carrying into effect the establishment of any such bad precedent.

Mr. WILSON. I desire to offer an amendment to the amendment.

Mr. THOMAS. I withdraw my amendment.

Mr. WILSON. As the gentleman has withdrawn his amendment, there is nothing to which mine would apply.

Mr. BURROWS. Mr. Chairman, I have an amendment to offer, which I ask the Clerk to read.

The Clerk read as follows:

And provided further, That the said pension shall only be paid from the death of her first husband to the time of her marriage to said Stout.

Mr. BURROWS. Now, Mr. Chairman, gentlemen on the other side seem to misconceive the ground upon which opposition is made to the passage of this bill, and all this talk about the widow and her necessity, to excite the sympathy of the committee, has no bearing on the case. It seems to me we ought to adhere to the line of policy marked out by the law. The law very properly grants a pension to the widow whose husband served his country and was either shot in battle or died from disease contracted in the service, because that country took from the wife her support, her husband, and seeks by this means to make compensation therefor. It also provides when she shall remarry her pension shall cease, the obligation on the part of the Government having ceased. If she deliberately enters into the marriage relation, knowing the bounty the Government furnishes her for the loss of her husband will be taken from her by reason of that remarriage, it seems to me afterward, if the marriage turns out disastrous, either by reason of death of the second husband, or by reason of his injury, or any other reason it does not prove beneficial to her, we ought not to step in and give her a pension.

I therefore insist the amendment I submit is a proper one, and I shall most heartily support it in giving this person a pension, and placing her on the pension-roll from the death of her first husband to the time of her remarriage. It seems to me that is proper.

Mr. HAZELTON. Does that provide for arrears?

Mr. BURROWS. During the time of her widowhood.

Mr. RYON, of Pennsylvania. I do not think it gives her arrears at all.

The amendment was agreed to.

Mr. THOMAS. I desire to offer an amendment providing that said pension shall be paid to the children of Robert Divine until they shall reach the age of sixteen years.

Mr. WILSON. That will defeat the whole thing.

Mr. THOMAS. No, it will not; but it will continue her pension after the second marriage to the children of the soldier up to the time they come to sixteen years of age.

Mr. COFFROTH. That is right.

Mr. RYON, of Pennsylvania. Yes, that is a proper amendment. It should provide that from the date of her second marriage the pension shall be continued to the children of Robert Divine till they reach sixteen years of age.

Mr. THOMAS. I have drawn the amendment up and ask the Clerk to read it.

The Clerk read as follows:

Provided further, That said pension shall be paid to the minor children of Robert Divine from the date of the second marriage until they shall become respectively sixteen years of age.

The amendment was agreed to.

Mr. RYON, of Pennsylvania, moved that the bill, as amended, be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

MARY A. CASTERWELLER.

The next business on the Private Calendar was a bill (H. R. No. 1467) granting a pension to Mary A. Casterweller.

The bill, which was read, authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary A. Casterweller, widow of John Casterweller, late a private in the Fourth Regiment of Pennsylvania Cavalry, and pay her a pension from the passage of this act.

Mr. WARNER. Let the report be read.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 1467) granting a pension to Mary A. Casterweller, widow of John Casterweller, private in Company C, Fourth Regiment Pennsylvania Cavalry, have had the same under consideration, and beg leave to make the following report:

The Committee on Invalid Pensions of the Forty-fourth Congress made the following report on this application, and the present committee see no reason to change the report, but adopt the same:

"That the said parties were duly married, and that the said John Casterweller died June 10, 1865, in or near Lynchburgh, State of Virginia, in the line of duty."

The committee recommend the passage of the bill.

Mr. WISE. It will be seen by the reading of the report, Mr. Chairman, that this bill passed this House in previous Congresses, and only failed for want of time. I move it be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

JESSE T. MYERS.

The next business on the Calendar was the bill (H. R. No. 4028) granting a pension to Jesse T. Myers.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Jesse T. Myers, late a private in Company A, Sixth Regiment of Maryland Infantry Volunteers, and to pay him a pension at the rate of $8 per month from the date of his discharge from the Army.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 4028) granting a pension to Jesse T. Myers, respectfully report that they have examined the case and find the claimant was enlisted as a private in Company A, Sixth Regiment of Maryland Infantry Volunteers, on the 10th day of August, 1862, to serve three years or during the war, and was discharged from the service on the 11th day of March, 1865, at United States General Hospital Emory, Washington, District of Columbia, by reason of the surgeon's certificate of physical disability; which disability, it appears from the evidence, has been permanent and now incapacitates the claimant from earning a support for himself and family.

The committee therefore recommend the passage of the bill.

Mr. BROWNE. I move to strike out all after the word "pension," in line 7, and insert "subject to the provisions and limitations of the pension laws of the United States."

The amendment was agreed to.

Mr. COFFROTH. I move that the bill, as amended, be laid aside to be reported to the House with a favorable recommendation.

The motion was agreed to.

LEWIS BLUNDIN.

The next business on the Private Calendar was the bill (H. R. No. 2550) granting a pension to Lewis Blundin.

The bill was read, as follows:

Be it enacted, &c., 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 Lewis Blundin, of Company C, Twenty-eighth Regiment Pennsylvania Volunteers, who was stricken down by disease during Sherman's campaign from Atlanta to the sea, which resulted in paralysis; the said pension to commence from the 29th day of March, A. D. 1866, the date of his discharge from the military service of the United States, at the rate of $8 per month.

Mr. GODSHALK. Mr. Chairman——

Mr. BROWNE. I move an amendment.

The CHAIRMAN. The Chair will first recognize the gentleman from Pennsylvania.

Mr. GODSHALK. I move to strike out all after the word "volunteers," in the seventh line.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Strike out the following words:

Who was stricken down by disease during Sherman's campaign from Atlanta to the sea, which resulted in paralysis; the said pension to commence from the 29th day of March, A. D. 1866, the date of his discharge from the military service of the United States, at the rate of $8 per month,

Mr. BROWNE. That meets the object I had in view. I do not desire to move a further amendment.

Mr. COFFROTH. There is no objection on the part of the committee to the amendment suggested by the gentleman from Pennsylvania.

The amendment was agreed to.

Mr. GODSHALK. I move that the bill as amended be laid aside with a favorable recommendation.

The motion was agreed to.

JANE STOUT.

Mr. HAZELTON. Mr. Chairman, on examination of the bill for the relief of Jane Stout passed a few moments ago, it appears that the amendments are entirely inconsistent with each other and render the bill imperfect and defective.

Mr. WILSON. Let the correction be made in the House.

Mr. HAZELTON. It can be done by general consent in a few moments if the gentleman from Indiana [Mr. BROWNE] will withdraw his amendment.

The CHAIRMAN. The Clerk will report the amendment to which the gentleman refers.

The Clerk read as follows:

Provided, That the pension shall cease upon the marriage of the said Jane Stout.

Mr. BROWNE. I hope that there may be unanimous consent given for the withdrawal of the amendment. My object was simply to perfect the bill. I only wanted to perfect the bill.

Mr. WARNER. Let the bill be reported as it will read if amended as proposed.

The Clerk read as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and required to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Jane Stout, of Schuylkill County, Pennsylvania, widow at the time of his death of Robert Divine, deceased, who was a private in Company E, Forty-eighth Regiment Pennsylvania Volunteers: *Provided*, That said pension shall only be paid from the death of her first husband to the time of her marriage to said Stout: *And provided further*, That said pension shall be paid to the minor children of Robert Divine from the date of said second marriage until they shall respectively become sixteen years of age.

The CHAIRMAN. Is there objection to the withdrawal of the amendment?

There was no objection; and it was ordered accordingly.

EDWARD H. MITCHELL.

The next business on the Private Calendar was the bill (H. R. No. 2549) granting a pension to Edward H. Mitchell.

The bill was read. It is as follows:

Be it enacted, &c., 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 Edward H. Mitchell, of Company I, Seventy-first Pennsylvania Volunteers, who was wounded at the battle of White Oak Swamp, July 30, 1862; the said pension to commence from the date of his discharge from the military service of the United States, at the rate of $8 per month.

Mr. GODSHALK. I ask to strike out all after the word "volunteers," in the seventh line.

The CHAIRMAN. The amendment will be read.

The Clerk read as follows:

Strike out the following: "Who was wounded at the battle of White Oak Swamp, July 30, 1862; the said pension to commence from the date of his discharge from the military service of the United States, at the rate of $8 per month."

Mr. COFFROTH. The Committee on Pensions will accept that amendment.

Mr. BURROWS. Let the bill be reported as it will read if amended.

The bill was again read.

Mr. BURROWS. Let the report be read.

The Clerk read as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 2549) granting a pension to Edward H. Mitchell, have had the same under consideration, and beg leave to submit the following report:

On March 11, 1863, one Edward H. Mitchell filed a claim for pension as late private in Company I, Seventy-first Pennsylvania Volunteers; swears he was discharged February 11, 1863, by reason of a wound received on or about June 30, 1862, while in action at the battle of White Oak Swamp, Virginia, having been shot in both legs by poisoned buckshot, and also by reason of his musket having been struck by a volley and being bent, striking him in the breast and injuring him severely.

Mr. BURROWS. From the reading of the report so far it appears that this soldier was wounded in battle. If so, I withdraw the demand for the reading of the report.

Mr. BROWNE. I would like to know, if he was wounded in battle, why the pension was denied. If some gentleman will explain the reason to the committee, I think it will be satisfactory without the necessity of reading the report.

Mr. COFFROTH. What is the question of the gentleman?

Mr. BROWNE. I wish to know why, if he was wounded in battle, and his disability must have been noticeable, how it happens that his pension was denied by the Pension Office?

Mr. COFFROTH. I do not know that I can answer the gentleman from memory. The report will show, however.

Mr. WARNER. Then let us have the report read.

The Clerk resumed, and concluded the reading of the report, as follows:

In a subsequent application, he swears he was injured in the right leg by a fall while making a charge on the enemy, which ruptured the veins of his legs and terminated in a running sore, rendering him unfit for manual labor; was also wounded in the leg by buckshot supposed to be poisoned, the result of the injury being varicose veins. In a third application he swears he was injured in the back and right leg at same battle, by falling on his back and injuring the same, while in the act of getting over a fence; was rendered unfit for the service, placed in a field hospital, where he lay until the next day, when he was captured by the enemy. That during his service as aforesaid, from fatigue and other causes, he contracted varicose veins, with which he is afflicted up to the present time. Filed with this third paper is an affidavit of one William W. Mannington, who swears he was in the same company, and of his own personal knowledge knows the statements of Mitchell to be correct and true.

The records of the War Department show claimant to have been enlisted June 2, 1861, mustered in June 28, 1861, missing in action at White Oak Swamp June 30, 1862. Also absent, taken prisoner at Malvern Hill, June 31, 1862. Company was in action June 30, 1862. They furnish no evidence that he was wounded. Prisoner-of-war records show him captured June 30, 1862. The records show claimant to have been present with company from enrollment to date of capture, June 30, 1862. Certificate of disability shows him to have been discharged because of "disability caused by varicose veins."

The records of the Surgeon-General's Office show him admitted to field hospital at Newport News, Virginia, July 27, 1862, with "gunshot wound." That he was admitted to camp hospital, paroled prisoners' camp, Annapolis, Maryland, with urticaria (nettle-rash.) His records furnish nothing further as to the disability.

Martin Rizer swears he was late surgeon Seventy-second Pennsylvania Volunteers, chief surgeon second brigade, second division, Second Corps; was present at the above battle; that he is cognizant of the fact that claimant while crossing the bridge fell and injured his back and leg, and was sent to hospital, where he came under his care; was unable to leave and was captured the next day. Makes this statement from his knowledge of the facts.

William P. Tomlinson certifies that he is captain of the company; that claimant was injured in both legs by poisoned buckshot, and also by his musket striking him in the breast, it having been struck by a volley from the enemy; that claimant was in the United States service and in the line of his duty; that the disability incurred has disqualified claimant from performing the duties of a soldier.

The records of the War Department and of the Second Auditor show Rizer and Tomlison to have been present on June 30, 1862, and that their signatures are genuine.

Richard Dingee, M. D., swears he knew claimant prior to his entering the service; that he was a sound, healthy man when he entered the service, free from any injury to the back or right leg; that he has known him professionally since discharge, and that his disabilities have been continuous since discharge.

On July 6, 1863, Wilson Jewell, examining surgeon for pensions, reports claimant as incapacitated one-half for obtaining his subsistence by manual labor; cause, varicose ulcer and veins; that it is his belief it was contracted in the service and in line of duty; that the disability is permanent; that his varicose ulcer and veins should entitle him to one-half disability, provided they were in existence and he was discharged for them.

On April 18, 1876, W. H. Kirk, examining surgeon, reports claimant almost entirely incapacitated from obtaining his subsistence by manual labor, by reason of disability resulting from injury to back and varicose veins. It is his opinion that the disability originated in the service.

This claim was investigated by the secret service division of Pension Office. The investigation cannot be considered a complete one, as the majority of the witnesses do not testify directly, but seem to qualify their replies. They, however, agree to the fact that claimant was able to earn his living prior to enlistment; that they knew of him having a sore on his leg, but never knew of his being affected with varicose veins.

The witnesses generally state he is a temperate man, and some of them in addition state he is a reliable man. It would also appear from the testimony that claimant was examined by a surgeon prior to enlistment and was passed by the surgeon. The special agent states that all the witnesses are intelligent and reliable men, personally known by him, and states that Mitchell never did have any regard for the truth, is now of no account, and never will be. It would appear from the animus of the special agent's statement that he entered upon this examination with prejudice against the claimant and summoned such witnesses as suited his feelings.

Affidavits are filed in the case from various parties, who state of their own knowledge that they were acquainted with him and never knew him to be affected with varicose veins or with weak spine.

On February 20, 1877, a petition, signed by fifty-three citizens of his vicinity, requests the Commissioner of Pensions to grant the pension; that they know the variocose veins were incurred in the service.

The committee are of the opinion that the accompanying bill should pass

Mr. WARNER. Mr. Chairman, the report just read does not show at all that this claimant was wounded in the service or that he claims a pension on that account; but shows that the claim is made on the ground of other disabilities of which, from the report I take it, there is no record evidence. I understand further that this is a case which has been made the object of a special examination by the Commissioner of Pensions, and the granting of the pension has been reported against. It seems to me that this report shows clearly that there was no disability on the part of this claimant received in the line of duty, and therefore that he is not entitled to a pension; and it is one of those cases that ought not to come here at all. If he is entitled to the relief sought it ought not to require a special act.

Mr. GODSHALK. It is the old story in regard to this pension claim. This man entered the service in 1861. He was wounded; but owing to the loss of records he could not make out his claim technically before the Pension Office. His claim was rejected from time to time. Finally, the Department sent up to the neighborhood where the man lived a special agent or a secret agent to inquire into the truth of these statements and find out all he could in reference to this case. Now, while this agent reported Mitchell was not a man whose word was to be believed, I know from my own personal knowledge that that special agent would not be believed on his oath, and that Mitchell stands a hundred-fold better in the estimation of the community than the special agent who went up there to investigate his case. I know of my own knowledge this man is believed in the neighborhood where he lives to be a truthful man. He is known to be a man of feeble intellect in some respects and may have been induced in some way to make contrary statements. But it is known to every one there that he went into the service an able man for the service. He was examined prior to his enlistment and passed by the surgeon, and it is known to every one there that he came out of the service a wounded and broken-down man and that he is unable to earn a living.

Mr. WARNER. Does the report show this man was wounded in action?

Mr. GODSHALK. It appears he went into hospital to be treated. This is recorded here in the report.

Mr. WARNER. The report shows he was missing from action.

Mr. GODSHALK. It shows he was taken to hospital.

Mr. BURROWS. I will say in answer to the gentleman from Ohio [Mr. WARNER] it appears in the report that the captain of the company testified—

That claimant was wounded in both legs by poisoned buckshot, and also by his musket striking him in the breast, it having been struck by a volley from the enemy; that claimant was in the United States service and in the line of his duty.

That is what is said by the captain of the company.

Mr. WARD. It appears, also, in the report that the certificate of disability shows him to have been discharged because of "disability

caused by varicose veins." And one of the affidavits, as I understand it, alleges that he was wounded with poisoned buckshot and that the varicose veins were a result of the wound so received; and the record follows him up to the point of the issuing of his discharge by reason of disability caused by that wound. It seems to me there is made out a complete case of disability incurred in the service and in the line of duty.

Mr. BURROWS. There can be no question of that.

The amendment was agreed to.

Mr. GODSHALK. I move that the bill, as amended, be laid aside and reported favorably to the House.

The motion was agreed to.

JAMES B. FURMAN.

The next business on the Private Calendar was the bill (H. R. No. 1452) for the relief of James B. Furman, reported from the Committee on Invalid Pensions by Mr. COFFROTH.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of James B. Furman, late a private of Company C, of the Seventh Regiment of Pennsylvania Volunteer Infantry, on the pension-rolls, at the rate of $8 per month, from the date of his discharge from the military service of the United States, in the late war of the rebellion, on account of disease contracted while in the line of duty in said service.

Mr. BROWNE. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out all after the word "rolls" and insert in lieu thereof "subject to the provisions and limitations of the pension laws of the United States;" so that it will read:

"*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of James B. Furman, late a private of Company C, of the Seventh Regiment of Pennsylvania Volunteer Infantry, on the pension-rolls, subject to the provisions and limitations of the pension laws of the United States."

Mr. WARNER. I had risen to propose the same amendment and to say I thought it was understood in the last session that all these bills were to be made to conform to the principle embodied in that amendment.

Mr. COFFROTH. I will inform the gentleman from Ohio [Mr. WARNER] that these bills were all reported as early as the 20th of February of last year, before the time when the House adopted the rule to which he refers. All the bills reported since that time have conformed to the rule adopted by the House. The committee make no objection to the amendment of the gentleman from Indiana.

Mr. WARNER. The statement by the gentleman from Pennsylvania is satisfactory. I ask that the report be read.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 1452) granting a pension to James B. Furman, late private in the United States military service, have had the same under consideration, and beg leave to submit the following report:

After examination, they have adopted the report made by the Committee on Invalid Pensions to the third session of the Forty-fifth Congress, as follows:

"That the said Furman enlisted into the service March 14, 1864, and was discharged August 23, 1864, for an injury received while in the service and in the line of his duty.

"On the 26th of July, 1864, he was detailed to draw some timber for a block-house, at bridge No. 13, near Columbia, Tennessee, and while so engaged he was struck a very violent blow with a lever or pry in the side, which threw him upon a log, causing a very severe hernia. In consequence of this injury he was sent home on a furlough; and the medical evidence shows that when he returned home at that time he was suffering from said injury, and was treated for it. The evidence also shows that he has suffered from said injury ever since his discharge, and that he is now wholly unfitted for labor.

"The committee consider the claimant richly deserving of a pension, and therefore recommend the passage of the bill."

The amendment offered by Mr. BROWNE was agreed to; and the bill, as amended, was laid aside to be reported favorably to the House.

JOHN A. INNES.

The next business on the Private Calendar was the bill (H. R. No. 1885) for the relief of John A. Innes, reported from the Committee on Invalid Pensions by Mr. COFFROTH.

The bill was read, as follows:

Be it enacted, That the Secretary of the Interior be, and he is hereby, authorized and directed to restore the name of John A. Innes, late a private of Company B, Fifty-first Regiment of Pennsylvania Volunteers, to the pension roll; and he shall be paid in the same manner and to the same amount that he would have been if payment had not been suspended or his name dropped from the roll.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 1885) granting a pension to John A. Innes, late of the United States military service, have had the same under consideration, and beg leave to submit the following report:

Having examined the lengthy and exhaustive report made by the Committee on Invalid Pensions to the third session of the Forty-fifth Congress, the committee have adopted the same, as follows:

"John A. Innes, of Easton, Pennsylvania, enlisted September 16, 1861, at Easton, as a private in Company B, Fifty-first Regiment Pennsylvania Volunteers, and was discharged August 25, 1862, at New Berne, North Carolina, on surgeon's certificate of disability. He rendered subsequent service during the invasion of Pennsylvania as a volunteer in Company C, Thirty-eighth Regiment Pennsylvania Militia, from June 30 to August 7, 1863; and again, in Company A, Twenty-eighth Regiment Pennsylvania Volunteers, from February 14 to May 23, 1865.

"Mr. Innes contracted hemorrhage of the lungs at the battle of Roanoke, North Carolina, February 8, 1862, was sent to the Hammond general hospital at Beaufort, North Carolina, and was discharged therefrom August 25, 1862, possessed of a seemingly permanent disability in a disease of the heart and lungs. He was, in due course of time, recognized by the Pension Office as a worthy applicant for an invalid pension, and was pensioned at $8 per month, commencing October 20, 1875, and at $18 per month, commencing September 1, 1876. The last payment was made to include December 4, 1877. On December 10, 1877, Innes was dropped from the pension-rolls in consequence of the report rendered by a special agent of the Pension Office, which stated that the disability for which he drew his pension existed prior to enlistment.

"From the very voluminous array of papers submitted with this case, your committee have selected a few, to which they invite the attention of the House in connection with their report.

"The first of these is an anonymous communication, addressed, presumably, to the Commissioner of Pensions, and dated 'Easton, Pennsylvania, October 1, 1877.' The writer signs himself 'An old citizen,' and makes a brief but pointed attack upon the character of Mr. Innes, declaring him not entitled to a pension. The Pension Office, in consequence of this anonymous charge or charges, ordered an investigation, by a special agent, of the case of Mr. Innes, which inquiry resulted in the suspension of the pension as already noted. The second of the selected papers in the case to which your committee especially refer is a letter addressed to the Pension Office, under date of February 7, 1878, by George E. Lemon, Esq., the attorney for claimant, in which is noted the allegation of Mr. Innes that his married sister was the principal witness examined by the special agent in the conduct of his investigation of the case of Mr. Innes, and that her adverse testimony was due to a bitter personal hostility existent between the pensioner and herself. The third particular reference is the combined affidavits of Mrs. Elizabeth Innes, the mother of the claimant, and three intimate friends of the Innes family, who each declare, on oath, that they know that John A. Innes and his married sister have been on unfriendly terms for six years past, the enmity being bitter, and its cause being the fact that the mother of the claimant allows him to occupy, rent free, a house belonging to her.

"Brief reference is now made to the fourth of these papers, wherein is found the evidence given before the special agent by Mrs. Sallie Cornell, the married sister of Mr. Innes. Her testimony is of an indefinite, hesitating character, and tends to show that the idleness of her brother previous to enlistment was induced by lung complaint and laziness. This idea is conveyed in a very doubting, equivocal manner, as a perusal of the evidence must show.

"Attention is now called to the sworn affidavits of Mrs. Elizabeth Innes, mother of the claimant, and of the following-named persons—each and all of them certifying to the entire health of Mr. Innes prior to his enlistment, this being the point on which was based the adverse report to the special agent. The affiants spoken of are: G. B. Slough, M. D., a physician of Easton, Pennsylvania, whose standing in the community is certified to by the prothonotary of the county court; Henry Ludwig, A. F. Hellet, Cornelius Brunner, E. H. Heckman, D. F. Davis, J. H. Genther, and Charles I. Frey, all being residents of Easton, the home of claimant. J. H. Genther was the first lieutenant of Company B, Fifty-first Regiment of Pennsylvania Volunteers, the command in which Mr. Innes served.

"The last of these special papers in this case is a letter written the Pension Office by Frank Reeder, commander of the Pennsylvania department of the Grand Army of the Republic, and dated 'Easton, April 12, 1879.' This is written in commendation of Mr. Innes as an original claimant; but its language can now be quoted as staunch testimony for Mr. Innes. Mr. Reeder says: 'It [the claimant's case] is one of the saddest cases I ever knew of, and one of the most deserving.'

"Beyond this your committee feel it perfectly useless to proceed. They have shown, by the strongest attainable evidence, that the claimant in this case has been debarred his pension by reason of bitter personal hostility, and the very fact that the investigation which resulted in robbing him of his pension was started by an anonymous letter, wherein charges were preferred against the claimant, seems to lend additional coloring to our verdict in the case.

"After a most thorough inspection of the multitude of papers submitted, your committee feel it incumbent upon them—always bearing in mind the equity of the case—to report favorably upon the bill.

"They recommend, therefore, that the said bill do pass."

Mr. COFFROTH. I move that the bill be laid aside to be reported favorably to the House.

The motion was agreed to.

JAMES R. GORDON.

The next business on the Private Calendar was the bill (H. R. No. 1453) for the relief of James R. Gordon, reported from the Committee on Invalid Pensions by Mr. COFFROTH.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and is hereby, authorized and directed to place the name of James R. Gordon, late a private in Company D of the Sixteenth Regiment of Pennsylvania Cavalry Volunteers, on the pension-roll, at the rate of $8 per month from the date of his discharge from the military service of the United States, in the late war of the rebellion, on account of disease contracted while in the line of duty in said service.

Mr. BROWNE. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out all after the word "roll," and insert in lieu thereof the words, "subject to the provisions and limitations of the pension laws of the United States."

Mr. COFFROTH. The committee has no objection to that amendment.

The amendment was agreed to; and the bill, as amended, was laid aside to be reported favorably to the House.

ALBERT O. MILLER.

The next business on the Private Calendar was the bill (H. R. No. 1455) granting a pension to Albert O. Miller, introduced by Mr. OVERTON, and reported from the Committee on Invalid Pensions by Mr. COFFROTH.

The bill was read, as follows:

Be it enacted, &c., 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 Albert O. Miller, late a seaman on board the United States steamship Bienville, and pay him a pension at the rate of $50 per month from and after the passage of this act.

Mr. BROWNE. I move to amend the bill by striking out the clause fixing the rate of pension—that is, the words "and pay him a pension at the rate of $50 per month from and after the passage of this act."

The amendment was agreed to.

Mr. WARNER. Let the report be read.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 1455) granting a pension to Albert O. Miller, late of the United States Navy, have had the same under consideration, and beg leave to submit the following report:

That Albert O. Miller enlisted as a seaman in the United States Navy on the 23d

day of September, 1864; that on the 15th day of January, 1865, while in such service and in line of duty, he participated in the capture of Fort Fisher; that after the capture of the fort the boats from which he and others had disembarked were found beached and partly filled with sand and water; that an attempt was made to bail the boats and prepare them for use, in which said Miller became drenched with the surf, and that he remained on the beach all night thoroughly wet by the exposure; that in consequence he suffered a severe attack of neuralgia and rheumatism, and that he has since suffered continuously from such rheumatism so contracted up to the present time; that his physical condition is now such by reason of said disease that he requires the regular aid and assistance of some other person, on account of total physical disability; that said Albert O. Miller was honorably discharged from the naval service of the United States; that he has made due and regular application for a pension (naval claim No. 3286) and has fully established his right to a pension of the amount named in the bill, save that he has failed to establish the facts of the time, place, and circumstances under which he contracted his said disability; that on account of such failure his application has been rejected by the Interior Department; that such failure has been by reason of the inability of said Miller to ascertain the whereabouts of his mates, the seamen who were present and had actual knowledge of said facts, and such failure has been notwithstanding diligent efforts on the part of said Miller to ascertain the whereabouts of such persons.

The committee, believing the case to be meritorious, recommend the passage of the accompanying bill.

Mr. COFFROTH. I move that the bill with the amendment be laid aside to be reported favorably to the House.

The motion was agreed to.

PHINEAS GANO.

The next business on the Private Calendar was the bill (H. R. No. 1259) granting a pension to Phineas Gano, introduced by Mr. WILSON, and reported from the Committee on Invalid Pensions by Mr. COFFROTH.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, directed to place on the pension-roll, subject to the provisions of the pension laws, the name of Phineas Gano, late a first lieutenant and regimental quartermaster of the Twenty-fifth Regiment Ohio Veteran Volunteer Infantry, with proportionate pay as first lieutenant to that now received by said Gano as private; said pension as first lieutenant to commence and be paid from the 18th day of July, 1865, the date of the final discharge of said Gano from the military service of the United States, deducting therefrom the amount heretofore received by said Gano on pension as a private.

Mr. WARNER. Let the report be read.

The report was read, as follows:

The Committee on Invalid Pensions, to whom the accompanying bill (H. R. No. 1259) was referred, having had the same under consideration, respectfully submit the following report:

The committee find that Phineas Gano, late first-lieutenant and regimental quartermaster, while a private in Company B, Twenty-fifth Ohio Veteran Volunteer Infantry, and in the line of duty, contracted rheumatism, which disease was very much aggravated by his continuous field service and consequent exposure as a lieutenant and regimental quartermaster, to which rank he had been subsequently promoted on account of many gallant services.

After his discharge he never recovered from this disability, and the rheumatism gradually became chronic, preventing him from performing manual labor, and, of course, from procuring a subsistence thereby. He was pensioned at the rate of $4 per month, and on applying for an increase he received $6 per month, and subsequently, on the recommendation of Dr. Charter, the examining surgeon of the Pension Department, who reported him as suffering from total and permanent disability as a result of the rheumatism contracted while in the service of the United States, he received $8 per month, the full pension of a private soldier.

It appears that the Pension Department has established a rule by which, when an injury is received or a disability is contracted, a pension is granted only at the rate proportioned to the rank of the soldier at the time of receiving the original injury or contracting the original disability; therefore, although Gano was suffering from total disability and left the service as an officer, the Department would not allow him other than the full pension of a private for total disability, because, as is alleged, the disability was originally contracted while serving as a private soldier.

Whatever may be the policy of this rule it does not seem to work well when applied to the claims of a deserving pensioner. The committee are of opinion that this case should not have been embraced under the rule, inasmuch as the original disability must necessarily have been aggravated by Gano's subsequent service in the higher rank; and as he is now suffering from total and permanent disability, as is shown by the report of the examining surgeon of the Pension Office, it is but just that he should receive the full rate to which his rank entitles him.

The committee therefore recommend the passage of this bill.

Mr. WARNER. I ask that the bill be again read.

The bill was again read.

Mr. BRAGG. Does this bill make provision for the pay of this applicant as an officer independent of his pension?

Mr. WILSON. It simply provides a pension for him as an officer.

Mr. BRAGG. From what committee does this bill come?

Mr. WILSON. From the Committee on Invalid Pensions.

Mr. BRAGG. Does the Committee on Invalid Pensions have charge of bills providing for the pay of officers of the Army? If I heard the bill correctly, it provides that this person shall in addition to his pension draw pay as an officer for a certain period of time when he had not been properly mustered into the service as such officer. This is a bill relating to the pay of an officer of the Army, and properly belongs to the Committee on Military Affairs.

Mr. WILSON. I think it is too late to raise such a point.

The CHAIRMAN. The Chair is informed that the bill provides for the payment of a pension from the date of discharge at the rate that would have been given him had he been pensioned as a lieutenant, deducting therefrom the pension he has already received as a private.

Mr. BRAGG. It occurred to me that the bill was subject to the other construction.

Mr. COFFROTH. Let the bill be again read.

The bill was again read.

Mr. COFFROTH. I move to amend by striking out the word "pay" and inserting the word "pension;" so that it shall read "with proportionate pension as first lieutenant to that now received by said Gano as private."

The amendment was agreed to.

The bill, as amended, was then laid aside to be reported favorably to the House.

MARGARET R. COLONOY.

The next business on the Private Calendar was the bill (H. R. No. 4609) granting arrears of pension to Margaret R. Colonoy, reported from the Committee on Invalid Pensions by Mr. COFFROTH.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he hereby is, authorized and directed to pay Margaret R. Colonoy, widow of Josiah B. Colonoy, late major of the First Regiment of Maryland Infantry Volunteers, arrears of pension at the rate of $8 per month, from the 12th day of October, 1864, the death of her husband, to the 22d day of March, 1878, up to which time she was pensioned as the widow of a first lieutenant, and at which time she was placed on the pension-roll as the widow of a major.

Mr. BROWNE. Let the report in this case be read.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the petition of Margaret R. Colonoy, widow of Major Josiah B. Colonoy, First Maryland Volunteers, have had the same under consideration, and submit the following report:

Margaret R. Colonoy, widow of Josiah B. Colonoy, was inscribed on the pension-rolls at the rate of $17 per month from the date of her husband's death, at the rank of first lieutenant. On the 22d of March, 1878, her pension was increased to rate as of the rank of major by special act of Congress. She now claims the difference between the pension of a first lieutenant's widow and that of the widow of a major from the death of her husband to the passage of the special act—to wit, the sum of $8 per month.

It is shown by the records in the case that Josiah B. Colonoy was mustered into the First Maryland Volunteers May 27, 1861, as a first lieutenant and adjutant, and served as such until September 6, 1864, when he was commissioned as major, and died while holding said rank, October 12, 1864, of wounds received in action August 21, 1864.

It is shown by the records in the case that a vacancy existed in the rank of major from May 19, 1864, until December 2, 1864.

Francis M. Smith swears that he was a first lieutenant and adjutant of said regiment, having been promoted to succeed said Colonoy, who was promoted to the rank of major. Said Colonoy was acting as major before and at the time of his being wounded, August 31, 1864, at which date he was sent to hospital in consequence of said wounds. His commission as major was received at the regiment after his removal to hospital, and by reason of said wounds, and without any fault or neglect on his part, he was unable to be mustered on his commission as major.

The committee are of the opinion that the widow is entitled to the arrears, as her pension should have originally been granted to her at the rate of the pensions granted to widows of persons holding the rank of major, and they therefore recommend that the accompanying bill do pass.

Mr. BROWNE. I would inquire if the original pension in this case was by a special act of Congress?

Mr. COFFROTH. It was, and ought to have been at first the pension of a major instead of a lieutenant. This bill covers only four years.

Mr. BREWER. Why was this woman granted a lieutenant's pension instead of a major's pension, if it was granted by Congress?

Mr. COFFROTH. It was a mistake in the bill passed in 1878. The bill was reported for a lieutenant's pension, and General Rice, of Ohio, then the chairman of the committee, afterward discovered the mistake, and at the same session, I believe, introduced a bill increasing the pension, which was not passed.

Mr. BRAGG. I think this bill should not be passed. If we pass this bill we will be doing very great—I do not know exactly what term to use—perhaps I should say very great violence to the military laws as well as the pension laws of the country. If I understand the report correctly, this officer who was pensioned by act of Congress received the wounds for which he was pensioned when he was a lieutenant.

Mr. COFFROTH. No, when he was a major.

Mr. BRAGG. And after he was taken to the hospital, suffering from those wounds, he was commissioned as a major. The rule in regard to pensions is that a person shall be granted the rate of pension which belongs to the rank that he held at the time the injury was received for which he is pensioned.

If we pass this bill we will change the entire system of our pension laws. We will provide, at least in principle, that if a man has been wounded while a lieutenant, which may have been in 1861 or 1862, and subsequently becomes a major-general, he shall draw a major-general's pension under his subsequent commission for wounds received by him when he held a lieutenant's commission. That would be doing injustice to hundreds and thousands of pensioners, and change the entire rule upon which pensions are granted. For that reason it seems to me this bill ought not to pass.

Mr. COFFROTH. I will state to the gentleman from Wisconsin [Mr. BRAGG] that this officer was wounded while acting as major, on the 31st of August, 1864, and was sent to the hospital on account of said wounds and died shortly thereafter.

Mr. STONE. Was he commissioned as major at that time or simply acting as major?

Mr. COFFROTH. Acting as major.

Mr. STONE. He was not commissioned as major?

Mr. COFFROTH. Not at that time.

Mr. BRAGG. In answer to the gentleman from Pennsylvania, [Mr. COFFROTH,] I will say that it is always the duty of the senior officer in rank, whether he be a fifth corporal or a major, to take command of the detachment to which he belongs, it may be a major's command, a lieutenant-colonel's command, a colonel's command or a brigadier-general's command. His grade and rank are not changed because for

the time being, under the rules regulating military organizations, he is the senior officer in command.

In hundreds of cases colonels commanded brigades; but does that fact make them brigadier-generals under the pension laws? Whoever is the senior officer for the time being takes command of the troops; he is obliged to do it. But that does not change the rank or grade of the officer at all. He simply discharges the duty which attaches to the office he holds. It does not make him a lieutenant-colonel if he be a major, or a colonel if he be a lieutenant-colonel.

Mr. COFFROTH. I desire to inform the gentleman from Wisconsin [Mr. BRAGG] that this man was commissioned on the 6th of September, 1864. He was wounded August 31, 1864, and a few days afterward was commissioned. After he was commissioned he died from the effects of the wound. A vacancy had occurred in which he was acting until the 6th of September, 1864, when he was commissioned. His death occurred after he had received the commission.

Mr. BRAGG. Of course; but the wound occurred before.

Mr. COFFROTH. But he died from the effects of the wound.

Mr. BRAGG. Of course; and he was entitled to a pension according to the rank which he held when he received the wound.

Mr. BROWNE. I wish to make a suggestion to the gentleman from Pennsylvania, [Mr. COFFROTH.] It appears that this pension was originally granted by special act of Congress. The pension was originally that of the surviving widow of a lieutenant; but by subsequent act of Congress it was increased to that of the surviving widow of a major.

Now, if we were asked to pass an act to-day for the first time, the bill, according to all the precedents we have been setting ever since the question of pensions has been pending before Congress, would not operate retroactively. We have in every instance struck out in these pension bills all provisions looking toward arrearages. So that, if this were pending to-day as an original question, we would not go back and grant arrearages. At the time of the passage of the act of 1878 arrearages, as a matter of course, would not have been allowed.

Now, what is this proposition? Although as an original act we would not grant arrearages at all, the proposition is that because some years ago we granted a pension of a particular kind and subsequently increased it by special act we shall now make that special act retroactive, so as to take in arrearages.

Mr. COFFROTH. I will explain if the gentleman will yield a moment.

Mr. BROWNE. Certainly.

Mr. COFFROTH. This woman was put on the pension-rolls in 1874 as the widow of a lieutenant, and drew pension at the rate of $17 a month. On the 2d of March, 1878, this special act was passed putting her on the roll as the widow of a major. She now asks for arrears of $8 a month for those four years, being the difference between the pension she received as the widow of a lieutenant and that which she should have received as the widow of a major. She insists that the Commissioner of Pensions made a mistake and that she ought to have been pensioned originally as the widow of a major.

Mr. BROWNE. I understand now that the original pension was granted by the Pension Bureau, and it was under the law the pension of the widow of a lieutenant.

Mr. COFFROTH. Yes, sir.

Mr. BROWNE. Subsequently, by an act of Congress, the pension was increased to that of the widow of a major. The Pension Office did all it could under the law. This man, according to the report, never was a major; so far as appears from the report he was never entitled to be mustered as a major; and the act of Congress of 1878 was an act of grace. Under the cold letter of the law this widow was not entitled to the relief granted by that act. I do not now controvert the propriety of that legislation; but if we pass this bill it simply gives this woman arrearages which she could not now get under the law—arrearages which would not have been granted to her when the act of 1878 was passed. Why is she any more entitled to arrearages for those years than the fifteen or twenty men and women in whose favor we have passed special bills in Committee of the Whole this afternoon?

I regret to oppose a pension for any person. I believe this is the first time I have done so. But it strikes me that this is simply a proposition to give this widow arrearages of pension after Congress in its magnanimity has put her on the pension-rolls at a rate to which she was not entitled under the general law.

Mr. WARNER. I think it would be quite within bounds to say that there are now on the pension-rolls 10,000 cases in which the pension was granted for the rank held at the time the disability was incurred, although afterward the soldier was advanced in rank. It has been the universal rule, as already explained, that pensions should be granted according to the rank held by the soldier at the time the wound was received. This case, as my friend from Indiana [Mr. BROWNE] has said, has been made an exception. Congress has taken it out of 10,000 similar cases and allowed a pension in accordance with a rank not held by the soldier at the time the disability was incurred. Now it is proposed to add arrearages. I think this is one case at least which the Committee of the Whole might very rationally refuse to lay aside for favorable report to the House.

Mr. COFFROTH. Now, Mr. Chairman, it is not arrearages, but it is to pay her the difference between what she received and what she was entitled to as the widow of a major who was regularly commissioned and mustered in before his death.

Mr. WARNER. But she was never entitled to that under the law, but only to the pension attached to the rank held by her husband at the time of his disability.

Mr. BROWNE. Do I understand the gentleman to claim, under the circumstances of this case and under the law, that the Commissioner of Pensions should have placed her originally on the pension-roll as the widow of a major?

Mr. COFFROTH. Undoubtedly. Here is the evidence.

Mr. BROWNE. Then I understand the gentleman to insist that one who was never mustered into the United States service with the rank of major was a major?

Mr. COFFROTH. He was commissioned, mustered in, and acted as major before his death. He died within twenty days after receiving this wound. He was wounded on the 21st of August, and he was mustered into service before his death.

Mr. BROWNE. Does the report state he was mustered into the service?

Mr. COFFROTH. I do not know in reference to that, but the fact is that he was mustered in. He was commissioned, and died while holding said rank.

Mr. BROWNE. Does the report state, or is it the fact, that he was ever mustered into the service as major?

Mr. COFFROTH. The report, I believe, does not state, but the fact really is that he was mustered into the service as major.

Mr. STONE. While in the hospital?

Mr. BROWNE. The report gives an excuse why he was not mustered into the service as major.

Mr. COFFROTH. It has been reported to me by the parties that he was mustered in.

Mr. BRAGG. I call attention to the fact that the report states his commission as major was received at the regiment after his removal to the hospital. He never got his commission until after he was wounded.

Mr. COFFROTH. He got it before he died.

Mr. BROWNE. The question I put to the gentleman is this: Was it the duty of the Commissioner to have recognized this man as having been mustered in as a major? Does the gentleman assume it was the duty of the Commissioner of Pensions to have placed on the pension-roll this woman as the widow of a deceased major, he not having been mustered into the service at all? If it is to cure a mistake made by the Commissioner of Pensions, I will vote for the bill.

Mr. COFFROTH. It most undoubtedly is the spirit of the law that the widow should receive the pension of the rank held by her husband at the time of his death.

Mr. BRAGG. Is that the law? Is it not of the rank held at the time he received the disability?

Mr. COFFROTH. Yes, of the rank held by him at the time he received the disability which caused his death.

Mr. BRAGG. Of course.

Mr. COFFROTH. I move the bill be laid aside to be reported to the House with the recommendation that it do pass.

The committee divided; and there were—ayes 5, noes 34.

Mr. SINGLETON, of Illinois. No quorum has voted.

Mr. ATKINS. I hope that question will not be raised by the gentleman from Illinois.

Mr. SINGLETON, of Illinois. Very well, I will withdraw the division.

Mr. ATKINS. The bill has been defeated.

The CHAIRMAN. The noes have it and the bill will be laid aside to be reported to the House with an unfavorable recommendation.

JOSEPH CARTWRIGHT.

The next business on the Private Calendar was the bill (H. R. No. 3123) to authorize the Secretary of the Interior to place upon the pension-roll the name of Joseph Cartwright.

The bill, which was read, authorizes and requires the Secretary of the Interior to place upon the pension-roll the name of Joseph Cartwright, late a private of Company G, Twenty-seventh Regiment of Ohio Volunteer Infantry.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred House bill No. 3123, entitled "A bill to grant a pension to Joseph Cartwright," ask leave to submit the following report:

We find from the papers in the original pension case filed in the Pension Office at various times since December 2, 1872, the date of filing the original declaration, that the petitioner enlisted as a private in Company G, Twenty-seventh Ohio Volunteers, August 3, 1861; was mustered into the service August 14, 1861, and was honorably discharged December 23, 1861. The testimony in the case shows that on the 2d of November, 1861, the claimant, with others, was being taken from hospital at Kansas City, Missouri, to join his regiment, the detachment being under command of a strange officer, detailed for the special duty, and whose whereabouts cannot now be ascertained; and while at Little Blue, Missouri, the detachment was attacked by the enemy and claimant, in the fight, was struck by a Minie ball in the forehead; that the ball remained in the wound, he receiving no medical treatment, being a prisoner in the hands of the enemy. He was finally paroled and received his discharge, returning to his home early in December, 1861, when he received medical treatment and the ball removed from the wound. The proof of the facts alleged was placed before the Pension Office as best they could be, and consist of the testimony of comrades who were with the claimant, of an officer who from report knew of the wounding, and from the home physician at Ironton, Lawrence County, Ohio, who removed the ball and rendered claimant medical service on his return to his home. The case was rejected by the Pension Office on the

ground of there being "no record and of his inability to furnish satisfactory evidence showing that the wound was received in service and line of duty."

The claimant states that it is utterly impossible to furnish further proof, as the officer before mentioned cannot be found. He therefore appeals to Congress to be pensioned by special act.

While under the pension laws the Pension Office must necessarily require the full amount of proof, and its action in this case seems proper, there is full and sufficient evidence before this committee to prove the merit of the claim. The soldier was in service but a few months at the beginning of the war, when but slight attention was paid to the proper keeping of records. The fact that his discharge was ordered by the War Department shows there were grounds for it. Although the record does not mention the wounding, his comrades present prove his being hit and taken prisoner, and the physician gives evidence as to his relieving him of the ball. In 1873 and again in 1877 examining surgeons of the Pension Office, before whom he was sent, find the claimant disabled from the effects of the wound, one rating him at $6 per month in 1873, the other, in 1877, fixing his degree of disability at $4 per month. Your committee would therefore recommend the passage of the bill.

Mr. UPDEGRAFF, of Ohio. I move that the bill be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

WYATT BOTTS.

The next business on the Private Calendar was the bill (H. R. No. 802) granting a pension to Wyatt Botts.

The bill, which was read, authorizes and directs the Secretary of the Interior to place on the pension-roll, at the rate of $8 per month, subject to the provisions and limitations of the pension laws, the name of Wyatt Botts, late a private in Company B, Eighty-eighth Regiment Infantry Ohio Volunteers.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 802) granting a pension to Wyatt Botts, having had the same under consideration, respectfully submit the following report:

We find, upon an examination of the papers originally filed in the Pension Office, that the petitioner enlisted as a private in Company B, Eighty-eighth Ohio Volunteers, on the 14th of August, 1862; was mustered September 24, 1862; was discharged July 3, 1865; and filed his application for pension September 29, 1876. He alleges that he is disabled by disease of the lungs and loss of sight of left eye, contracted at Camp Chase, Ohio, in December, 1862. The testimony shows that the petitioner was a sound man at date of enlistment. That he contracted typhoid fever as alleged is shown by the evidence of his captain. His family physician says "that in the spring of 1863 petitioner was home on furlough for fever and inflammation of the eyes. The lungs were also involved."

The petitioner when called upon by the Pension Office to produce evidence of medical treatment after his discharge, stated his inability to do so up to 1871, but submitted the sworn statement of a man and wife that they had lived with him in the same house from the time of his discharge up to 1871, and that he was constantly suffering from disease of the lungs and eyes and treated himself with patent medicines.

The evidence of a reputable physician is filed in the Pension Office September 29, 1876, to the effect that he had been the family physician of the petitioner for five years prior thereto; that when first called to see him he found him suffering from pulmonary phthisis, from typhoid fever, also loss of one eye, resulting from erysipelas. The records of the War Department, Adjutant-General's Office, show no evidence of alleged disability on the rolls or returns, but show that his company was stationed at Camp Chase December 31, 1862. The evidence of the Surgeon-General's Office shows that he was admitted to Chase general hospital October 31, 1862, and was transferred and admitted again January 5, 1864, with general debility, and returned to duty February 19, 1864. The records of the Surgeon-General give no other information. He was examined by a surgeon of the Pension Office, at Champaign, Illinois, January 20, 1877, who found him not incapacitated from obtaining a subsistence by manual labor, but rated him at $8. His description is as follows: Height, six feet; weight, one hundred and sixty; age, thirty-eight; pulse, eighty-four; respiration, twenty; sight of left eye gone; no apparent sympathetic affection of right eye; slight trouble with lungs and heart.

In a sworn statement petitioner alleges that he can furnish no other evidence as to his disability. The claim was rejected February 27, 1878, by the Pension Office, on the ground "claimant unable to show connection of present disability with the service by medical testimony from discharge to 1871, there being no record of disease alleged."

Your committee believe that, in view of the time which has elapsed, the petitioner may be unable to obtain the testimony which the Pension Office deems necessary to establish his right to a pension under the laws; but your committee is of the impression, from the evidence before it, that the petitioner was disabled while in the service, that he is still disabled, and that his present disability proceeds from disease contracted while in the Army; and they therefore report favorably, and recommend the passage of the bill (H. R. No. 802) granting a pension to Wyatt Botts.

Mr. DAVIS, of Illinois, moved that the bill be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

JAMES P. HUNTER.

The next business on the Private Calendar was the bill (H. R. No. 2773) granting a pension to James P. Hunter.

The bill is as follows:

Be it enacted, &c., 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 P. Hunter, late a private in First Illinois Light Artillery.

The report was read, as follows:

The Committee on Invalid Pensions report:

That from an examination of the papers originally filed in the Pension Office, it appears that the petitioner enlisted and was mustered into the United States service in Company F, First Illinois Light Artillery, January 11, 1864, and was discharged on July 10, 1865; that while in the line of duty at Chattanooga, Tennessee, he contracted sore eyes, and was treated in hospital for such disease. The petitioner states in his claim that he is unable to furnish the evidence of the Army surgeon who treated him, as he did not know his name, and that he is unable to furnish the evidence of a commissioned officer of his company at the date of the contraction of his disability. He presents evidence from a number of comrades showing that the disease of the eyes was contracted while the petitioner was doing fatigue duty May 1, 1865, at Chattanooga, Tennessee; also evidence showing his freedom from any disease of the eyes at the time of his enlistment, and the fact of his eyes being sore when he came out of the Army. He was examined by the examining surgeon of the Pension Office January 15, 1873, when he was rated at "one-half" pension for disease of the eyes, which the physician then found as "chronic conjunctivitis with granulated lids." He was examined again April 15, 1879, by another examining surgeon, who found him suffering with disease of the eyes, and rated him at "one-half" disability—$4 per month. The Pension Office declines to admit the case to pension, in the absence of medical evidence of treatment in the service, which the petitioner claims he is unable to furnish for the reasons stated.

Your committee can understand the action of the Pension Office under the law, but is of the impression that the facts and equities of the case indicate the meritorious nature of the claim to pension. The proof is clear that he went into the service free from any disability of the eyes; that he came out of the Army with his eyes affected, and they have continued so affected up to the present time. They therefore believe him entitled to pension, and, in view of the evidence presented, report favorably, and recommend the passage of the bill (H. R. No. 2773) granting a pension to James P. Hunter.

Mr. DAVIS, of Illinois. I move that the bill be laid aside to be reported to the House with a favorable recommendation.

The motion was agreed to.

HENRY MILLS.

The next business on the Private Calendar was the bill (H. R. No. 2439) granting a pension to Henry Mills.

The bill was read, as follows:

Be it enacted, &c., 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 Henry Mills, late a private, Company D, of the Ninety-eighth Regiment Illinois Volunteers, to date from the 6th day of July, A. D. 1865.

The report is as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 2439) granting a pension to Henry Mills, having had the same under consideration, ask leave to submit the following report:

That it appears in evidence that Henry Mills enlisted and was mustered into the United States military service on or about the 30th day of August, A. D. 1862, as a private soldier in Company D, Ninety-eighth Regiment Illinois Volunteer Infantry. It also appears that said Mills was in continuous service until July 6, A. D. 1865, at which time he was mustered out of service with his regiment at Camp Bolton, Springfield, Illinois; that said Mills was in sound, robust, and vigorous health at date of muster in, and that he was broken down, his constitution impaired, and had lost the sight of one eye when mustered out.

It further appears in evidence that while in the service and in the line of duty he was taken sick with the measles and sent to hospital; that upon recovering from this disease he was stricken with the small-pox. Upon his recovery from the small-pox, not being able for field duty, he was detailed and retained at the small-pox hospital as an orderly or messenger; he was occupied most of the time in procuring from the general hospital headquarters rations, medicines, and other supplies, and conveying same to the small-pox hospital; that in performing this service he was directed by the surgeon in charge to use a mule team, and in his attempt to secure the mules upon one occasion he was severely kicked upon the side of the head by a mule, and the sight of his left eye was instantly destroyed and has been lost to him ever since. The degree of his disability by reason of the loss of his left eye, and his impaired health caused by the diseases heretofore referred to, is classified by the medical examiner as one-half incapacitated for obtaining his subsistence by manual labor. The disability is declared permanent by the same party.

Your committee believe this to be a worthy and meritorious case, and report said bill back and respectfully recommend that it do pass.

Mr. DAVIS, of Illinois. Mr. Chairman, I move to amend by striking out all after the word "volunteers" in line 7.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Strike out the words "to date from the 6th day of July, A. D., 1865.

The amendment was agreed to.

Mr. DAVIS, of Illinois. I move that the bill, as amended, be laid aside to be reported to the House with a favorable recommendation.

The motion was agreed to.

CAROLINE STIEF.

The next business on the Private Calendar was the bill (H. R. No. 853) granting a pension to Caroline Stief.

The bill is as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls the name of Caroline Stief, widow of Frederick Stief, late a member of the Missouri militia, subject to the provisions and limitations of the pension laws, and that her pension shall be paid from and after the 31st day of December, 1870.

The report was read, as follows:

The Committee on Invalid Pensions report:

That we find, upon examination of the papers in the pension case originally filed in the Pension Office, that the petitioner is the widow of Frederick Stief, who was a private in Company B, Sixth Battalion Missouri State Militia, and who, in the battle of Boomfield, Missouri, in 1861, was severely injured by being struck in the side by the butt of a musket, from the effects of which injury he suffered continually, and finally demised in Boomfield, Missouri, December 30, 1870; that his widow applied for a pension within a year after his death, and that it was pending in the Pension Office until completed in 1877; that the delay in its completion was caused by the inattention and carelessness of her first attorney, and that the last attorney who had the claim in hand furnished the bulk of the evidence to complete it; that it was rejected in 1877 by the Pension Office, under the third clause of section 4693 of the Revised Statutes, which recites that "no claim of this character shall be valid unless prosecuted to a successful issue prior to the 4th day of July, 1874."

Your committee, after examining the testimony and the statement of the petitioner made to them, are constrained to believe that the delay in completing the claim cannot justly be attributed to the petitioner; that she was made the victim of inattention and carelessness on the part of her attorney, and that under all the circumstances of the case she should not be made to suffer.

Under the law the Pension Office was obliged to reject the claim, but your committee deem that it is a proper case for the interposition of Congress. We therefore report favorably upon the petition and recommend the passage of the bill (H. R. No. 853) granting a pension to Caroline Stief.

Mr. DAVIS, of Illinois. I move to amend the bill by striking out all after the word "laws," in line 7.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Strike out the following:

"And that her pension shall be paid from and after the 31st day of December, 1870."

The amendment was ageeed to.

Mr. DAVIS, of Illinois. I move that the bill, as amended, be laid aside to be reported to the House with a favorable recommendation.

The motion was agreed to.

WILLIAM G. THOMPSON.

The next business on the Private Calendar was the bill (H. R. No. 2764) granting a pension to William G. Thompson.

The bill is as follows:

Be it enacted, &c., 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 William G. Thompson, son of William G. Thompson, who was a captain in the First Regiment of Massachusetts Artillery, and was killed in the battle of Petersburgh, Virginia, May 20, 1864, and pay him a pension at the rate of $22 per month.

Mr. CRAPO. If the committee will allow me a word it will render unnecessary the reading of the report in this case.

A bill in behalf of this claimant was introduced in the Forty-fifth Congress, and was favorably reported by the Committee on Invalid Pensions, but did not receive the action of the House. It was introduced very early in this Congress—in the first session of this Congress—and had reasonably prompt attention from the Committee on Invalid Pensions, who reported favorably upon it, and it has been for over fourteen months pending on the Private Calendar without action by the House. This, Mr. Chairman, was a very meritorious case. It was a case of a poor, helpless cripple, whose father was shot dead as Petersburgh. But while we have been delaying action here upon this claim in the transaction of public business——

Mr. BRAGG. Will the gentleman allow me to make an inquiry of him?

Mr. CRAPO. Certainly.

Mr. BRAGG. I understand this bill provides for a pension at the rate of $22 per month?

Mr. CRAPO. Yes, sir. I was going on to say that while we have been delaying, and delaying for three years, action upon a case as meritorious as this, on account of public business, during all of which time this poor boy has been waiting and waiting for some aid from the Government for which his father gave his life, death has intervened and thereby relieved him of his pain and helplessness and the Government from any burden for his support. It is unnecessary now to pass the bill. And that suggests to us, Mr. Chairman, that there should be some method provided by which meritorious cases like this can have more prompt action than they now receive.

Mr. WARNER. Will the gentleman from Massachusetts pemit me to ask him why the pension was not granted by the Pension Office?

Mr. CRAPO. The case is this: he did have his pension, but it expired when he became sixteen years of age.

Mr. WARNER. And it requires a special act to renew it, of course.

Mr. CRAPO. The Pension Office could not grant it. It must have been granted, if granted at all, by special act of Congress. But it is now too late.

Mr. WHITE. Do I understand the gentleman from Massachusetts not to want this bill acted upon?

Mr. CRAPO. It is unnecessary now.

Mr. DAVIS, of Illinois. I move that the bill be laid on the table.

The CHAIRMAN. The Chair would suggest to the gentleman that that motion can be made after the committee rises.

Mr. WHITE. Then strike out the enacting clause.

The CHAIRMAN. The Chair would suggest to the gentleman from Pennsylvania that the proper motion would be that it be reported to the House with a recommendation that it be laid upon the table. This will attain the object the gentleman has in view in making the motion.

Mr. WHITE. I am not particular.

The CHAIRMAN. The question is on the motion to report the bill to the House with a recommendation that it be laid upon the table.

The motion was agreed to.

JOHN MURPHY.

The next business on the Private Calendar was the bill (H. R. No. 59) for the relief of John Murphy.

Mr. ROBINSON. I will save the committee the trouble of having this bill read by stating that while it has been pending upon the Calendar the Pension Office has taken up the case and granted the pension. Nothing is now to be asked from Congress. I therefore move that it be reported to the House without recommendation, and when there I will move to lay it on the table.

The motion was agreed to.

AMANDA J. M'FADDEN.

The next business on the Private Calendar was the bill (H. R. No. 2075) granting a pension to Amanda J. McFadden, reported from the Committee on Invalid Pensions by Mr. DAVIS, of Illinois.

The bill was read, as follows:

Be it enacted, &c., That the Commissioner of Pensions be, and he is hereby, authorized and directed to place upon the pension-roll the name of Amanda J. McFadden, widow of George McFadden, deceased, who received a pension up to his death on account of service and wounds as a soldier of the United States in the Black Hawk war; and that the said Commissioner is hereby directed to pay the said widow all arrearages of pension from the date of the death of her said husband.

The report was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill H. R. No. 2075, having had the same under consideration, respectfully submit the following report:

We find upon an examination of the papers originally filed in the pension claim of the petitioner at the Pension Office that she is the wife of George McFadden, who was a soldier in the Black Hawk war in 1832, (captain of the Illinois Mounted Volunteers;) that he was wounded by the hostile Indians June 24, 1832; that he was discharged from service June 29, 1832; that he died April 20, 1852; that he was pensioned for his wound, and received such pension up to the time of his death.

The widow's application was filed October 31, 1853, and was completed March 4, 1879. The case was rejected by the Pension Office on the opinion of the medical referee of that office that the disease from which the soldier died was not the result of the wound he received in battle.

Your committee find that the evidence in the case shows that the wound received by the soldier was a gunshot above the ankle, which fractured the bone and caused the leg to become much shorter than the other; the bone was rendered "carious;" and that the wound remained unhealed, and as a running sore, up to a few years before the soldier died.

The evidence of neighbors and associates shows that he was much afflicted, but that his health was better before the wound healed than afterward; that after the healing of the wound his health became very poor, and he was affected in various ways. The medical evidence in the case, as to death, is that of Dr. William W. Fox, submitted May 22, 1879, who says: "While he could not state positively that the death, which occurred in the prime of the soldier's life and while he was under his care, was directly the result of the wound in his leg, he can state that the said wound troubled him a great deal, and did not heal up until a few years previous to his death; and after said wound healed up, his general health never was as good as it was previous. He was troubled with dyspepsia, which was attributable to the healing up of the wound. The dyspepsia continued, and ultimately what seemed to be cancer of the stomach became fully developed, and after a lingering illness caused his death. There is no doubt that had his death not been so hastened he would have continued to receive his pension until the present time."

Your committee, upon the evidence of the facts in the case, are constrained to believe that the death of this soldier was in a manner attributable to his wounding, and that, notwithstanding the technical objection of the Pension Office, the petitioner is properly entitled to the consideration of Congress. They therefore report favorably upon the petition, and recommend the passage of the bill (H. R. No. 2075) granting a pension to Amanda J. McFadden.

Mr. WHITE rose.

Mr. DAVIS, of Illinois. I claim the floor as having reported the bill.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois.

Mr. DAVIS, of Illinois. I offer the amendment which I send to the desk.

The Clerk read as follows:

Strike out all after the word "war," namely, the words "and that the said Commissioner is hereby directed to pay the said widow all arrearages of pension from the date of the death of her said husband."

Mr. WHITE. I am appealed to by gentlemen all around me not to oppose this bill. I say with deference to them they do not know anything about it. They are yielding to their hearts instead of following their judgments as legislators.

What is this bill? It is a bill to give a pension to the widow of George McFadden, as to whom the committee report that he was a soldier in the Black Hawk war in 1832, (captain of the Illinois Mounted Volunteers;) that he was wounded by the hostile Indians June 24, 1832; that he was discharged from service June 29, 1832; that he died April 20, 1852. Think of it. He died in 1852. How many years ago? Twenty-nine years ago is it not, or thereabout? Very well; this has been slumbering from that time to this. Why have they delayed making this application all this time?

During the life-time of the deceased soldier he received a pension—that was all right—for a wound he received above the ankle. I have read this report carefully to discover any plausible right in the widow to receive a pension on account of the death of her husband. Her application was made to the Pension Bureau, and they refused it. It is perfectly clear if her husband had died as the consequence of the wound he received, if he had died in 1852 in consequence of a wound received in 1832, she would have received the pension. There is no evidence at all that this death was the consequence of the wound.

An appeal is made to my heart and the hearts of other gentlemen here that this old lady ought to be pensioned because she is an old dependent woman. That is all right. That appeals to my heart. But there is not even plausible evidence here of any connection between the death of the husband and the wound received in 1832. What does the doctor say? The only evidence reported here is the following, being the evidence of Dr. William W. Fox:

While he could not state positively that the death, which occurred in the prime of the soldier's life and while he was under his care, was directly the result of the wound in his leg, he can state that the said wound troubled him a great deal, and did not heal up until a few years previous to his death; and after said wound healed up, his general health never was as good as it was previous. He was troubled with dyspepsia, which was attributable to the healing up of the wound. The dyspepsia continued, and ultimately what seemed to be cancer of the stomach became fully developed, and after a lingering illness caused his death.

I submit there is no evidence here at all showing that this man died as the consequence of the wound. There is an effort to pass this bill allowing large arrearages of pension without any evidence whatever. I for one want to go on the record as being against this bill, and I move that it be reported to the House with the recommendation that the enacting clause be stricken out.

The CHAIRMAN. There is an amendment pending. The gentle-

man from Pennsylvania [Mr. WHITE] will be recognized in due time to submit his motion.

Mr. MANNING. I would be glad to appeal successfully to the heart of the gentleman from Pennsylvania, but I would not desire him to do violence to his judgment. Let him be ever so exacting. Let him look ever so critically into the case. Let him read ever so narrowly what is in the report and what is found much more elaborately in the testimony submitted to the committee. The gentleman read Dr. Fox's testimony in part. He stopped, however, just where he could have found the evidence which he says is wanting.

Mr. WHITE. Where is it? That is what I was looking for.

Mr. MANNING. I will accommodate the gentleman. He has the report in his hand, and he stopped reading at the word "death," just two lines from the bottom of the page. The testimony of Dr. Fox given in the report goes on—

There is no doubt that had his death not been so hastened he would have continued to receive his pension until the present time.

Mr. WHITE. Oh, certainly; if he had not died he would have received the pension to the present time.

Mr. MANNING. That is not what Dr. Fox says. That is the testimony of the gentleman from Pennsylvania, [Mr. WHITE.] Dr. Fox says his death was hastened on account of this wound which he received in the Black Hawk war; and but for his death as the result of this wound he to-day would have been a pensioner of the United States Government.

I submit, if we are going to be just in this matter, we would say it is much more important the pension given to the husband in his life-time should go to the widow, after her support in life is taken from her, than it was that it should go to him in his life-time, she being the beneficiary, as the widow, to a partial extent.

The committee has examined this case; it has reported upon the testimony; and I regard it as highly persuasive and conclusive, if not to the gentleman from Pennsylvania, at least to myself and other members of this House.

But the gentleman says this has been slumbering for twenty years. That is not true. The fact is, immediately after the death of George McFadden this application, in 1853, was made to the Commissioner of Pensions; and it was followed up.

The evidence would develop the facts more fully than they will be found in this report. It shows that one thing after another was required of this widow, and she endeavored to respond. Some of the papers were missing; she was unable to follow the case up, being a widow and in great destitution and living in the distant West, and the case was not concluded until within the past year or so. But is it to be said that because of the lapse of time, because justice is delayed until 1881, therefore it is not to be given at all?

I would suggest to the gentleman that he ought to get upon higher grounds than that of antagonizing the merits of this widow's application when the Committee on Invalid Pensions recommend that she shall have this pension. I have personally examined the papers in this case, and I know there has not been one hour since she filed her application (twenty-six years ago, to be sure) that she has not endeavored as well as she could in her crippled condition, being a woman and not able to prosecute the case with that vigor with which a smart man or an active attorney would have done—not one hour during which she has ever abandoned her cause or permitted it to slumber, as the gentleman says; and I submit that such a statement as he has made is not in accordance with the facts of the case.

Mr. WHITE. The gentleman from Mississippi, [Mr. MANNING,] I fancy, does not desire to do me injustice, and will not knowingly do his own case injustice. I said, and said truthfully, that this case slumbered for twenty-six years before final action was demanded upon it. The application seems to have been made October 31, 1853. There was no decision made upon the case until March 4, 1879, nearly twenty-seven years.

Mr. MANNING. Let me ask my friend where he gets authority for asserting that there was no action demanded of the Commissioner of Pensions until the past year or so? I beg to inform the gentleman that the contrary is true.

Mr. WHITE. Very well; the presumption is that every man will pursue his rights diligently. *Vigilantibus non dormientibus leges subveniunt.*

Mr. MANNING. Yes; but there has been no sleepiness on the part of this widow. There has been sleepiness on the part of the Commissioner; but this widow is entitled to the pension because she has been vigilant.

Mr. WHITE. I am glad that the gentleman seems to understand the language which I employed. I repeat that there seems to have been unexcusable negligence in this case, having been left without insisting upon final action or without completing it for twenty-six years. I will read what the report says. I have not time, and we here have not time, to go through all the evidence in the case, and I will refer to the epitome of the evidence contained in the report:

The widow's application was filed October 31, 1853, and was completed March 4, 1879.

Mr. MANNING. By the Commissioner of Pensions.

Mr. WHITE. One moment. It does not say, "by the Commissioner;" it says "was completed March 4, 1879." I assume that the final evidence was completed in 1879, but I will not be hypercritical about that. I do not care whether it was completed at that time by the action of the Commissioner or of the applicant. It was inexcusable and unexplained negligence.

The case was rejected by the Pension Office on the opinion of the medical referee of that office that the disease from which the soldier died was not the result of the wound he received in battle.

First we have this evidence of negligence, and then we have this positive testimony.

Mr. MANNING. No; the positive testimony is from the physician attending this soldier in his last illness, and is directly against the position which the gentleman takes.

Mr. WHITE. One moment. If the gentleman will restrain his impatience he will understand my position. I say that, in addition to this negligence, we have the positive statement of the medical referee of the Pension Bureau that the death of this soldier was not the result of the wound he received in battle. Is not that correct?

Mr. DAVIS, of Illinois. That is merely an opinion.

Mr. WHITE. Very well; what does the judge give when he charges a jury or discharges an application for a rule or makes a decree? It is but the recording of the opinion of the magistrate. So this is the positive opinion of the medical referee that the death was not the result of the wound.

I see nothing in the report in this case to overthrow the evidence of the careful examination, and the final and proper decision which the Pension Office seems to have made in this case; and with all deference to the gentleman from Mississippi who is representing his constituents——

Mr. MANNING. No, not my constituent at all; she lives in Illinois.

Mr. WHITE. Very well. The heart of the gentleman has been moved, possibly, by the appeals made to him—and I do not blame him for it; I compliment him for it—by the appeals made to him on behalf of this old lady by some of her friends. But I submit that those appeals should not be allowed to overcome the positive testimony in the case. There is no evidence here that would justify us in overthrowing the decision of the Pension Bureau, and therefore I have made the motion which I have submitted.

The CHAIRMAN. The first question is upon the amendment to the bill proposed by the gentleman from Illinois, [Mr. DAVIS.] The Clerk will read the portion of the bill which it is proposed shall be stricken out.

The Clerk read as follows:

And that the said Commissioner is hereby directed to pay the said widow all arrearages of pension from the date of the death of her said husband.

Mr. DAVIS, of Illinois. I desire to add to my motion that in lieu of the words stricken out there shall be inserted the words "subject to the provisions and limitations of the pension laws."

Mr. WHITE. How will the bill then read?

The CHAIRMAN. The Clerk will read the bill as proposed to be amended.

The Clerk read as follows:

That the Commissioner of Pensions be, and he is hereby, authorized and directed to place upon the pension-roll the name of Amanda J. McFadden, widow of George McFadden, deceased, who received a pension up to his death on account of service and wounds as a soldier of the United States in the Black Hawk war, subject to the limitations and provisions of the pension laws.

The question was taken; and the amendment was agreed to.

The CHAIRMAN. The question now recurs upon the motion of the gentleman from Pennsylvania, [Mr. WHITE,] that this bill be laid aside to be reported to the House with an adverse recommendation.

The motion of Mr. WHITE was not agreed to.

Mr. DAVIS, of Illinois. I now move that the bill, as amended, be laid aside to be reported favorably to the House.

The motion was agreed to.

JOHN T. NEALE.

The next business on the Private Calendar was the bill (H. R. No. 3309) for the relief of John T. Neale.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to inscribe upon the permanent pension-rolls, subject to the provisions and limitations of the pension laws, the name of John T. Neale, an employé of the Provost-Marshal-General's Department in 1861, for a pension, payable at the rate prescribed by law for the loss of a leg below the knee-joint by an enlisted man in the Army in actual battle, said pension to commence from the 11th day of September, 1861: *Provided*, That from the arrears due hereunder there shall be deducted the sum heretofore paid him, the aforesaid John T. Neale, by the Secretary of the Treasury, pursuant to the act for his relief approved March 3, 1879.

The report was read, as follows:

The Committee on Invalid Pensions, to whom were referred House bill No. 3309 and the petition accompanying it of John T. Neale, having had the same under consideration, respectfully report:

We find that the petitioner was late an employé of the Provost-Marshal's Department, and has heretofore been before Congress in the character of a petitioner for benefit of the pension law. The case has been examined by committees of both Houses of Congress, and your committee, after examining the papers in the case and the reports heretofore submitted, find that said Neale came to Washington in 1861 as a member of a company of engineers, attached to the Seventy-ninth New York Volunteers, better known as the "Seventy-ninth Highlanders," Colonel James Cameron. There was no law permitting an infantry regiment to embody a company of engineers, and all those composing said company were disappointed in their desire to join the Army. Neale, a veteran of the Mexican war, having come to fight, made a personal appeal to Hon. Simon Cameron, Secretary of War, who sent Neale to General Andrew Porter for employment, if possible. General Porter, being in need of courageous and experienced scouts, enrolled Neale.

The evidence sustains the following facts: that John T. Neale, a citizen of the State of New York, at the outbreak of the late war for the suppression of the rebellion, enrolled himself in a volunteer company raised for the service in the Engi-

neer Corps; that the company thus raised and in which he was enrolled not being accepted by the Government, he tendered his services to Brigadier-General Andrew Porter, provost-marshal of the District of Columbia, by whose authority he was assigned to duty, bearing arms as a scout and detective, acting in conjunction with regularly organized armed forces of the United States; that while in the performance of such duties, and while under the immediate orders of General W. W. Averill, assistant adjutant-general of the Provost-Marshal's Department, and on the occasion being mounted on an unruly and unmanageable horse, the property of the Government, and used by said Neale in the discharge of duties to which he had been assigned by orders aforesaid, said Neale was thrown against a rock by said horse, near Long Bridge, in the State of Virginia, then one of the States in rebellion against the Government, and so injured and wounded thereby as to crush his leg above the ankle, by reason of which wound and injury amputation of the fractured limb was necessitated, and the said Neale was rendered a cripple for life. The amputation of said limb was performed by a surgeon in the United States Army, at the United States General Hospital in the city of Washington, on the 11th day of September, 1861, about the date of the wound and injury. These facts are shown by the testimony of General Andrew Porter, Provost-Marshal General; General W. W. Averill, assistant adjutant-general of that department of the military service; and J. W. Gawley, assistant surgeon, United States Army, then in charge of said hospital. On the 28th day of February, 1876, General Averill addressed a letter to Hon. S. S. Cox, who introduced said bill, from which your committee quote the following:

"Mr. Neale was a zealous, daring man, who was employed on special duty in the Provost-Marshal-General's Department in 1861, and lost a leg while performing his duty, and something should be done for him."

It also appears that Mr. Neale at one time sought relief under the pension laws by application for pension in due form to the Commissioner of Pensions. His application was rejected, because there is no provision in the general pension law for a pension to a person not a regularly-enlisted soldier except for wounds or injury received in battle, and because he did not receive the injury which resulted in his disability in battle.

Mr. Neale subsequently sought relief by a bill for pension (H. R. No. 1833) first session Forty-first Congress, which was referred to the Committee on Invalid Pensions; but as its passage would conflict with paragraph 3, section 4693 of the Revised Statutes, relating to pensions, and limits the time for the admission of claims of this character, that committee did not recommend the passage of said bill.

Your committee submit that while it is true that under the pension laws there is no relief afforded in this case, and that relief can only be obtained by special act of Congress, this case is of such a just and meritorious character as to entitle Mr. Neale to the relief asked for in the bill. The fact that he was not a regularly enlisted soldier, and did not receive the injury which resulted in his disability in battle, ought not to deprive him of the relief sought if he was in the discharge of the duties to which he had been assigned by competent authority in acting in conjunction with regularly organized armed forces of the United States, and that while in the performance of said duties and under the orders aforesaid the wound or injury was received, which facts are abundantly sustained by the testimony.

In view of the facts stated, and that the injury was incurred in the faithful performance of duty at the theater of war, within the boundaries of a rebellious State; that Mr. Neale has also rendered honorable service to his country as a soldier in the Mexican war; that he is aged and is permanently disabled by said injury so as to be unable to pursue any active duty, and that a similar case may not arise, your committee believe that the relief asked for should be granted as a matter of justice to a man in declining years, rendered helpless for life by reason of injuries received while in the faithful discharge of his duty to his country; and therefore report said bill (H. R. No. 3309) and recommend the passage of the same.

Mr. WHITE. I move to amend this bill by striking out all after the word "battle" down to the word "provided." This will strike out the provision for the payment of arrearages of pension. I see that the bill refers to an act heretofore passed for the relief of this man. Does any gentleman know what that act provided?

Mr. MASON. I have prepared and send to the desk an amendment which I think will meet the gentleman's views. It is in the form of a substitute for the whole bill.

The CHAIRMAN. The amendment sent up by the gentleman from New York [Mr. MASON] will be read, after which the gentleman from Pennsylvania, [Mr. WHITE,] if he so desires, will be entitled to recognition upon his amendment.

The Clerk read as follows:

Strike out all after the enacting clause and insert:

"That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to provisions and limitations of the pension laws, as an enlisted private, the name of John T. Neale, late a scout under General Andrew Porter, provost-marshal of the District of Columbia, in the war for the suppression of the rebellion."

Mr. WHITE. As the committee will observe, the pending bill makes reference to an act passed in 1879. I have that act before me and will read it:

Be it enacted, &c., That the Secretary of the Treasury be, and is hereby, authorized and directed to pay unto John T. Neale, late an employé of Brigadier-General Andrew Porter, provost-marshal of the District of Columbia, (by whom said John T. Neale was assigned to duty as a special detective police officer, and sustained an injury while engaged in said service which resulted in making him a cripple for life,) out of any moneys in the public Treasury not otherwise appropriated, a sum equal in amount to that which he would have been entitled to had said John T. Neale been an enlisted man in the Army, for a permanent specific disability, to wit, the loss of one leg below the knee-joint; and that said amount be computed in accordance with the present allowance for such disability, to date from the 11th day of September, 1861.

This man did get arrearages, it seems.

Mr. MYERS. He is not now asking for arrears, but to be placed permanently on the pension-roll.

Mr. WHITE. I do not understand clearly the effect of the amendment of the gentleman from New York, [Mr. MASON.]

The CHAIRMAN. It will be again read.

The Clerk again read the amendment.

Mr. WHITE. That is all right. I withdraw my amendment.

The amendment of Mr. MASON was agreed to.

Mr. MASON. I move that the bill, as amended, be laid aside to be reported favorably to the House.

The motion was agreed to.

Mr. BRIGHT. I move that the committee rise.

Mr. HUNTON. I ask the gentleman from Tennessee to withdraw that motion and yield to me for a moment.

Mr. BRIGHT. I have promised to yield first to the gentleman from Ohio, [Mr. CONVERSE.]

THOMAS WORTHINGTON.

Mr. CONVERSE. I ask the Committee of the Whole by unanimous consent to take up the case of poor old Tom Worthington, on page 62 of the Calendar. Its consideration will detain the committee but a moment. He is now between seventy and eighty years of age, and can enjoy his pension only a short time. He saved the fortune of Shiloh.

Mr. WILSON. I hope the request of the gentleman from Ohio [Mr. CONVERSE] will be agreed to.

There being no objection, the House proceeded to the consideration of the bill (H. R. No. 6201) granting a pension to Thomas Worthington.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior is instructed to place the name of Thomas Worthington, late colonel Forty-sixth Ohio Volunteer Infantry, on the pension-rolls, and that he be entitled to a pension at the rate of $30 per month.

The CHAIRMAN. Is the reading of the report demanded?

Mr. WHITE. Yes, sir.

The Clerk proceeded to read the report, which is as follows:

The Committee on Invalid Pensions, to whom was referred the petition of Thomas Worthington, late colonel of the Forty-sixth Ohio Volunteer Infantry, having had the same under consideration, would respectfully report:

That Colonel Worthington graduated with distinction at West Point July 1, 1827, and was appointed brevet second lieutenant of artillery, and resigned October 15, 1828. His resignation was accepted to take effect December 31, 1828. In March, 1846, he re-entered the military service, and aided in raising Company D, Second Ohio Volunteer Infantry, for the Mexican war, and was elected its captain July 3, 1846. He was subsequently appointed adjutant of the regiment. It appears that he got leave of absence September 1, 1846, for two months, and was unable to return within the time by reason of sickness, but was granted an honorable discharge to take effect from January 1, 1847.

July 29, 1861, he was authorized by the Secretary of War to raise and organize a regiment of volunteers, and he became colonel of the regiment January 30, 1862. His regiment was in the battle of Shiloh, 6th and 7th of April, 1862, and rendered valuable service in resisting the assault of the enemy on the extreme right of the Federal Army. He was arrested in August, 1862, and tried by court-martial and found guilty of intoxication and printing certain extracts from his diary, and was sentenced to be cashiered; but subsequently, on the 8th of January, 1867, the Secretary of War revoked the sentence of dismissal, and directed Colonel Worthington to be honorably discharged from the service on tender of resignation to date November 21, 1862, to which date he had been paid. This appears to have been done on the recommendation of General Grant. He was accordingly honorably discharged the service. He published a book of tactics in April, 1862, which was very useful to the western troops. His services at Shiloh were undoubtedly of great utility. He is now old, helpless, and very poor. Your committee believe, in view of all the facts and circumstances, that the Government ought to grant him a pension of $30 a month, and therefore they report a bill for that purpose and recommend its passage.

Before the reading of the report was concluded,

Mr. BARBER moved that the further reading of the report be dispensed with.

The motion was agreed to.

Mr. BARBER. I move that this bill be laid aside to be reported favorably to the House.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. BREWER. I move that the committee rise.

Mr. HUNTON. I hope the gentleman will yield to me a moment.

Mr. DAVIS, of Illinois. I ask unanimous consent for the consideration of a bill.

Mr. TALBOTT. The gentleman from Tennessee [Mr. BRIGHT] who made the original motion yields to me.

Mr. BREWER. I cannot yield. There are half a dozen other gentlemen desiring the same thing.

Mr. TALBOTT. I wish to bring up a bill which was before the House only a day or two ago, and was carried over on account of one objection.

The CHAIRMAN. The gentleman from Michigan [Mr. BREWER] moves that the committee rise. If gentlemen do not desire that the committee should rise, the remedy is to vote down the motion.

Mr. BRIGHT. Before that motion is put, I wish to state that the gentleman from Wisconsin, [Mr. BRAGG,] chairman of the Committee on War Claims, desires unanimous consent to take up the bill reported from his committee allowing claims under the act of 1864. It is important the bill should be passed promptly and go to the Senate, so that the Committee on Claims there may investigate these cases and put the bill on its passage.

Mr. BREWER. I withdraw my motion.

CLAIMS REPORTED BY TREASURY ACCOUNTING OFFICERS.

Mr. BRAGG. Mr. Chairman, I ask, by unanimous consent, to take up for consideration at this time the bill (H. R. No. 6717) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department. The amendments reported from the Committee on War Claims are clerical, in order to make the bill conform to the report of the accounting officers of the Treasury, save one.

The CHAIRMAN. The gentleman will indicate the page of the Calendar where the bill is to be found.

Mr. BRAGG. The bill is to be found on the last page of the Calendar. The one amendment other than clerical is that allowing a

claim at $800 instead of $575. The reason of that amendment is this: The accounting officers find the property taken to be of the value of $800. They certify the loyalty of the party and that the property was taken for the use and was used by the Army; but the quartermaster's jurisdiction did not extend beyond the line of Tennessee, and one mule and one horse were over the line. So a portion of the property was across the line in Mississippi, and they find its value, but say they are prevented from taking jurisdiction of it further than making report to Congress for its action.

Mr. WHITE. Will my friend answer me a question?

Mr. BRAGG. Certainly.

Mr. WHITE. Am I to understand that this mule was started from Tennessee? [Laughter.]

Mr. BRAGG. I think the gentleman mistakes me. I should have said, if I had spoken my views on the subject, that mules are very apt to start from Pennsylvania and go to Tennessee and elsewhere. [Laughter.]

Mr. BRIGHT. I move the further reading of the bill be dispensed with, as it is a very voluminous one.

Mr. BRAGG. That is true; the bill is a very long one, and I move to dispense with its reading.

There was no objection.

Mr. BRAGG. I now move that the bill be laid aside to be reported to the House with the recommendation that it do pass.

The CHAIRMAN. The amendments will be considered as agreed to, and the bill will be laid aside to be reported to the House with the recommendation that it do pass as amended.

There was no objection, and it was ordered accordingly.

Subsequently, on motion of Mr. BRAGG, the accompanying report was ordered to be printed in the RECORD. It is as follows:

The Committee on War Claims, to whom was referred the letter of the honorable Secretary of the Treasury, dated ——— —, 1880, transmitting a list of claims reported by the accounting officers of the United States as allowed under the provisions of the act of July 4, 1864, respectfully report:

That this committee prepared a bill from the list so transmitted, and reported the same to the House, (H. R. No. 6717), and the same was printed and recommitted to this committee.

That this committee has carefully compared the said bill with the record of the cases allowed, and find many errors therein, and report the bill back with sundry amendments.

The amendments to the bill, in so far as they apply to the payment of claims, are simply to correct errors in spelling, errors in name, and in some few instances errors in amount, and in the description of the person when the allowance is to a person in a representative capacity.

In no case has there been any change from the amount actually allowed by the accounting officers, except in the case of Richard H. Parham, jr.—lines 1533 and 1534 of the original bill.

The accounting officers report an allowance of "$517," while the amendment of the committee makes the allowance of "$800."

The reasons for this additional allowance are these: by an examination of the record from the office of the Quartermaster-General it will be seen that the finding of that Department finds the value of the quartermaster's stores belonging to the claimant and taken and used by the Government to be $800; and they find all the other conditions to exist which entitle him to payment of the whole amount, save one, and that one is a question of jurisdiction, and affects two items of his claim, to wit, one mule worth $100, one horse worth $125=$225.

The question of jurisdiction was, in the opinion of your committee, correctly determined by the Quartermaster-General, and these two items were rejected from the amount otherwise found claimant's due.

The question of jurisdiction arises under the terms of the act conferring certain jurisdiction upon the Quartermaster's Department to determine claims for property taken and used in certain defined territory. (See act of July 4, 1864.)

This claimant was a resident of Tennessee, and all the property for which he made claim, except these two items, was taken in Tennessee; the horse and mule, though belonging to the claimant, as found by the Department, were, in fact, taken beyond the Tennessee line and within the State of Mississippi, and that Department held rightly, as we think, that they could not, under the act of July 4, 1864, make allowance for these items.

But the Quartermaster's Department having found all the facts in favor of the claimant and against the Government, and the whole case being before us for revision, where the jurisdictional question is not binding and conclusive, the committee deemed it but simple justice to correct the allowance, and give the claimant the amount found his due.

The committee recommend the passage of the bill as amended.

The amount appropriated by this bill is $251,108.72.

PAYMENT OF CERTAIN AWARDS.

Mr. BRAGG. I wish to ask unanimous consent to take from the Calendar a bill (H. R. No. 6248) directing the payment of certain awards in favor of parties therein named. The total amount appropriated by this bill is $9,563.65. The awards were made by a military board organized by Major-General George H. Thomas for the purpose of appraising the value of property taken from Union citizens of East Tennessee and used by the Army.

The CHAIRMAN. The Chair hears no objection, and the bill is before the committee.

Mr. BRIGHT. I move to dispense with the reading of the bill.

Mr. HOSTETLER. I ask that the bill be read, so we may know what we are voting on.

The bill was read, as follows:

That the Secretary of the Treasury be, and he is hereby, directed to pay, out of any money in the Treasury not otherwise appropriated, to the following-named persons in the State of Tennessee, the sums found to be due them by a court of claims created by Major-General George H. Thomas, in the year 1864, composed of Colonel H. C. Gilbert, of the Nineteenth Michigan Regiment of United States Volunteers, as president, and Captain Hubbard, Lieutenant Colville, Dr. John B. Armstrong, and S. L. Colville, members, to wit:

J. M. Bragg, $323; R. C. Belcher, $259.60; John G. Brown, $65; Will Cummings, $125; J. Collier, $120; Stephen Cope, $15.20; G. P. Cummings, $180.50; Nancy Clendennin, $63; John Evans, $25.60; W. R. Eddings, $10; James M. Evans, $260; George Flanegan, $533; W. Faulkner, $75; Robert Gamble, $98.60; Micajah Gillette, $52.50; Isaac Grizzel, $102; John H. Hopkins, $110; Tempa Hays, $198; Dickson Hillier, $73.20; J. Hooten, $100; J. A. Jones, $264.84; Jesse Locke, $125; Cyrus Lytle, $110; Thomas B. Locke, $522; G. C. Moffitt, $277; J. and G. R. Macon, $471; J. E. Medley, $270.80; G. P. Moffit, $338; Andrew W. Martin, $32.40; G. W. McDaniel, $100; Thursay A. Nebbit, $30; J. Purser, $57; Harden Patterson, $188.75; Lucinda Plumly, $570; Watson Riggs, $97.80; William Reader, $24; Samuel Ramsey, $423; G. W. Ramsey, $10; James R. Shelton, $150; Thomas Stegall, $32; W. R. Stegall, $85; A. Stone, $292; Malinda Stipes, $89.50; J. M. Smallman, $25; Moses Sparkman, $240; W. O. Smith, $68; Henry Thomas, $272.40; B. C. Thomas, $280; Nathan Wheeler, $250; Edward B. Wheeler, $354.66; Henry E. Ward, $75; Matilda Young, $141.20; Le Roy T. Fustan, $161.10; Dial Brown, $15; Rachael Hennesse, $125;

The said several sums so awarded being in full for quartermaster and commissary stores taken and used by the United States Army from the said persons respectively, and the receipt of the same shall be taken and accepted in such case as a full and final discharge of the several claims so examined and allowed by the said military board.

Subsequently, on motion of Mr. BRAGG, the report was ordered to be printed in the RECORD. It is as follows:

The Committee on War Claims, to whom was referred the bill (H. R. No. 3510) directing the payment of certain awards in favor of parties therein named, submit the following report:

It appears from the records and evidence in reference to the subject-matter of this bill, obtained from the War Department and filed in this case, that Major-General George H. Thomas, commanding the Department of the Cumberland, on the 8th day of February, 1864, issued the following order, namely:

"[Special Field Orders No. 39.—Extract.]

"HEADQUARTERS DEPARTMENT OF THE CUMBERLAND,
"*Chattanooga, February* 8, 1864.

"XVI. A board of claims, consisting of four officers and two citizens, is hereby appointed to meet at McMinnville, Tennessee, to fix the damage sustained by loyal citizens of that vicinity by military occupation.

"Colonel H. C. Gilbert, Nineteenth Michigan Infantry; Captain John W. Moore, Twenty-third Missouri Infantry; Captain Charles M. Hubbard, Nineteenth Michigan Infantry; Mr. Samuel L. Colville; Mr. James M. Thompson; Lieutenant Henry A. Forde, Nineteenth Michigan Infantry, recorder.

"The board will meet at the call of the president.

"By command of Major-General Thomas.

"W. D. WHIPPLE,
"*Assistant Adjutant-General.*"

This order was issued in pursuance of the policy of the Government recognizing individuals who were public enemies by laws of war by reason of their residence as friendly to the Government for the purpose of encouraging a sentiment of loyalty to the Federal Government within the insurrectionary territory.

Before any proceedings were had under the order, except the receipt of claims for adjudication, a supplementary order was issued as follows:

"[Special Field Order No. 81.—Extract.]

"HEADQUARTERS DEPARTMENT CUMBERLAND,
"*Chattanooga, March* 21, 1864.

"XI. The following-named officers and citizens are relieved from further duty as members of the board of claims instituted by Par. XVI, S. F. O. No. 39, (C. S.,) from these headquarters: Captain J. W. Moore, Twenty-third Missouri Infantry; Lieutenant H. A. Ford, Nineteenth Michigan Infantry; Mr. J. P. Thompson.

"XII. The following-named officers and citizens are detailed as members of the board of claims instituted by Par. XVI, S. F. O. No. 39, (C. S.,) from these headquarters: Major E. A. Griffin, Nineteenth Michigan Infantry; Lieutenant Leroy Cahill, Nineteenth Michigan Infantry; Dr. John B. Armstrong.

"By command of Major-General Thomas.

"W. D. WHIPPLE,
"*Assistant Adjutant-General.*"

The docket of cases heard by and before this board and the awards made therein, obtained from the War Department and filed as a part of this case, shows that there was filed with such board for hearing one hundred and ninety claims.

The hearing before the board commenced March 28, 1864, and seems to have been concluded April 18, 1864; and there was awarded for quartermaster stores and commissary supplies to the several persons included and named in this bill the sums which the bill provides shall be paid to them respectively.

The committee do not regard the payment of these awards as a question submitted to their decision upon the original facts on which the awards are based. They have been determined and allowed by a military board, called under the apparent sanction of the Government, and whose action seems to have been approved not only by the major-general commanding, but by the War Department, and they have not been paid. The committee use the term "seem to have been approved," because the papers and records remaining in that Department show no disapproval, which may be said to be a negative pregnant, almost as strong as affirmative proof.

This board was composed of officers in actual service whose sympathies may not be suspected of leaning overmuch to the claimants. It held its sessions in the vicinage of the claimants, and its facilities for proof were better than any civil tribunal that has been constituted to hear such claims; and your committee think its findings are entitled to credit.

It may be said, in addition, the Government afterward furnished tribunals to hear this class of claims. These claimants, presumably relying on the awards made by this board, have not prosecuted their claims elsewhere, and statutes of limitations have run against them. But the committee do not care to rest the allowance on an estoppel *in pais* or anything analogous to it. They prefer to stand upon the awards made as an adjudication of a court created by authority of the Government to hear and adjudicate claims of individuals against it and to hold such adjudications not formally disapproved by the authority convening the court as final.

But the committee find that the bill is incorrect and does not conform accurately to the awards made, and therefore report a substitute for the entire bill and recommend the passage of the substitute.

Mr. BRAGG. I move the bill be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

WILLIAM R. WILMER.

Mr. TALBOTT. I ask unanimous consent to take up for consideration at this time a bill (H. R. No. 301) for the relief of William R. Wilmer.

There was no objection.

The bill, which was read, authorizes the Secretary of the Treasury in adjusting the accounts of William R. Wilmer, late collector of internal revenue for the fifth district of Maryland, to credit him with the sum of $1,813.54, that being the amount in value of internal-revenue stamps and cash of which the safe in his office was robbed by burglars on the night of the 27th of April, 1875, and which have

not been recovered: provided it shall appear to the satisfaction of said Secretary that said Wilmer was robbed without any collusion or privity on his part.

The report of the committee was read, as follows:

The Committee on Ways and Means, to whom was referred the bill (H. R. No. 301) for the relief of William R. Wilmer, late collector of internal revenue for the fifth district of Maryland, have had the same under consideration, and submit the following report:

William R. Wilmer was appointed collector of internal revenue for the fifth district of Maryland, on the 1st day of May, 1872, and continued in said office until the 1st day of January, 1876, and during said term had his office at Saint Denis, in the county of Baltimore.

On the night of April 27, 1875, his office was entered by burglars, and his safe blown open and robbed of United States beer-stamps of the value of $5,446.75; cigar-stamps, $581.25; tobacco-stamps, $18; cash, $1,026.66; in all, $7,072.66; the property of the Government.

Immediately on the discovery of the robbery he telegraphed the Commissioner of Internal Revenue to send some person to investigate the case, which was done, and a thorough investigation made by an agent, who reported the facts to the Commissioner, and acquitted the collector of all fault. Wilmer offered a reward of $1,000 for the recovery of the property and the conviction of the burglars, and at once placed the matter in the hands of experienced detectives. Suspected parties were several months afterward arrested in New York, in whose possession was found a large portion of the stamps, amounting in value to $5,250.12, which were recovered.

The committee find that the robbery was perpetrated through no fault, collusion, or privity of said Wilmer, and in consequence of no want of reasonable diligence or care on his part for the protection of the property; that he made every proper effort for its recovery, in doing which he subjected himself to considerable personal sacrifice and expense. He stands charged on the books of the Internal Revenue Office with $1,813.54, which is the difference between the amount stolen and that recovered, and can obtain no settlement of his account without paying that amount from his private funds, unless the Secretary of the Treasury is authorized to credit him with it.

The committee are of the opinion that, under the established policy of Congress to furnish relief in cases of loss occurring in such manner, he is entitled to the redress which he seeks, and therefore recommend the passage of the bill.

Mr. TALBOTT. I move the bill be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

EMMA A. PORCH.

Mr. BREWER. I move that the committee rise.

Mr. PHILIPS. I wish to appeal to the gallantry of the House for just two minutes.

The CHAIRMAN. The Chair will state to the gentleman from Michigan that there are two or three gentlemen on each side of the House who have been promised recognition if the motion to rise is not made. Recognition will be equally bestowed on the two sides of the House.

Mr. BREWER. I withdraw my motion.

Mr. PHILIPS. I ask to take up for action at this time a bill (H. R. No. 4367) granting a pension to Emma A. Porch.

There was no objection.

The bill, which was read, authorizes and directs the Secretary of the Interior to place on the pension-roll the name of Emma A. Porch, of Cole County, Missouri, subject to the provisions and limitations of the pension laws.

The report of the committee was read, as follows:

The Committee on Invalid Pensions, to whom was referred the bill (H. R. No. 4367) to place on the pension-roll the name of Mrs. Emma A. Porch, of Cole County, Missouri, beg leave to report:

That the committee find that Mrs. Porch during the war was employed by the military authorities of the Federal Army as dispatch-bearer and spy; that in this capacity she was most active, and rendered important and valuable service to the Army of the Department of Missouri. The Government recognized these services, and Congress, by special act approved June 14, 1878, paid her a moderate compensation therefor, after many years of impatient waiting. The evidence submitted to the committee from her neighbors, the county officials, and her attending physicians, abundantly establishes the fact that when she entered into the military service she was and had always been possessed of a robust constitution and perfect health; that during her said military service she was much exposed to hunger, cold, and rain; that since the war her physical strength and health have been greatly impaired, and have continued to decline, until a few years ago she was stricken with paralysis, which has partially destroyed the use of one side. She is now quite nigh helpless and unable to work, and is a subject of charity, being without any property of consequence, and in constant need of medicine and medical treatment.

You committee think her case appeals most strongly to the Government, which she served with such heroic spirit and fortitude in the day of its need, to help her now in her infirmity resulting from military services. No good reason is apparent for her exclusion from the bounty of the Government because she was not an enlisted soldier. Her sex prevented the enlistment, but it enabled her to gain access to the enemy, to pass safely by and through their lines, and thereby to render to the Government a service as valuable as the soldier who bore a musket. Your committee therefore recommend the passage of the accompanying bill.

Mr. PHILIPS moved the bill be laid aside to be reported to the House with the recommendation that it do pass.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. WARNER. I give notice that I shall hereafter insist upon following the Calendar in its regular order.

Mr. DAVIS, of Illinois. Mr. Chairman——

Mr. WHITE. I move that the committee do now rise.

Mr. DAVIS, of Illinois. I hope that motion will not be pressed. I would like to ask unanimous consent to make a statement not exceeding one minute.

Mr. WARNER. I insist on following the Calendar, and shall not yield to anybody for any motion that attempts to take up a bill out of the regular order as they come upon the Calendar.

Mr. WHITE. That being the case, I insist upon the motion that the committee do now rise. [Cries of "Regular order!"]

The CHAIRMAN. The Chair will state the present attitude of business before the committee as well as the several motions which are being made and in their order. The Chair recognized the gentleman from Illinois in pursuance of a statement that he would alternate between the sides to ask——

Mr. WARNER. Is this the first bill on the Calendar?

The CHAIRMAN. For consideration of a bill out of its order.

Mr. WARNER. Then I object.

The CHAIRMAN. Pending that the gentleman from Ohio interposes an objection; and pending that objection the gentleman from Pennsylvania moves that the committee do now rise.

Mr. HASKELL. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. HASKELL. When the Chair stated his proposition, and he did state it after or before one or two gentlemen were recognized, he stated that if he was allowed to do so he would recognize gentlemen according to promise. Unanimous consent was then and there given to do so. I hold now that the objection of the gentleman from Ohio comes too late; that the consent was given and the committee is bound by it. That being the case, the recognition of the Chair which has been given to the gentlemen from Illinois on this side of the House must hold.

Mr. WARNER. I make my objection without reference to the side of the House to which recognition is to be given, whether the proposition comes from this or the other side.

Mr. HUNTON. I wish to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HUNTON. I wish to inquire whether this committee will rise now in face of the fact that the Chair has stated that a partial agreement which received the unanimous indorsement of the committee——

Mr. MORRISON. To which objection ought not now to be made.

Mr. HUNTON. And the departure from that agreement will cut off a pension to a poor old colored man who lost two legs in the service of the country.

The CHAIRMAN. The Chair, in response to the parliamentary inquiry of the gentleman from Virginia, would state that he had indicated an intention to recognize one or two gentlemen on the other side, and would be very glad if he could be permitted to make perfect the recognition promised. But the Chair is bound to hold that the motion that the committee rise is always in order and must be recognized by the Chair.

Mr. DAVIS, of Illinois. I understand that the motion that the committee rise is withdrawn.

Mr. WHITE. It is withdrawn with the understanding that the gentleman from Ohio does not insist upon his objection.

The CHAIRMAN. If the motion is withdrawn the Chair will recognize the gentleman from Illinois.

Mr. WHITE. What does the gentleman from Ohio say?

Mr. WARNER. I have said all I desire to say, and that is that I do not withdraw my objection. I have taken that position advisedly. I am opposed to passing bills in this way, and I insist that we go by the Calendar in the regular order of the bills.

Mr. ATHERTON. Then I move that the committee rise.

The CHAIRMAN. The Chair will state that, having made the agreement prior to the objection of the gentleman from Ohio, and having recognized the gentleman from Illinois to offer a bill for consideration, the Chair will permit the title of the bill to be read, after which objection will be asked for. The Clerk will report the title of the bill to which the gentleman from Illinois refers.

The Clerk read as follows:

A bill (S. No. 752) granting an increase of pension to Crafts J. Wright.

The CHAIRMAN. Is there objection to the consideration of the bill?

Mr. WARNER. I object.

Mr. WHITE. Then I renew the motion that the committee now rise.

Mr. ALDRICH, of Illinois. I insist it is now too late to object. This agreement which has been made by consent of the committee is now being carried out.

The CHAIRMAN. However much the Chair's inclination may lead him to carry out his recognition, he is compelled to recognize the motion that the committee rise. [Cries of "Regular order!"]

Mr. WARNER. In view of the fact—[cries of "Regular order!"]

The CHAIRMAN. The motion is that the committee rise.

The committee divided; and there were—ayes 38, noes 54.

So the motion was not agreed to.

Mr. ATHERTON. I wish to make a parliamentary inquiry. I want to understand how far this agreement is to go. Does it extend to anybody else than one or two gentlemen on the other side to whom promises have been made?

The CHAIRMAN. There have been three recognitions since the regular order on the Calendar was abandoned, but one of these was for the purpose of transacting business in which the party moving for recognition had no personal interest, and therefore that, the Chair supposes, should not be counted. There have been two recognitions—to the gentleman from Maryland [Mr. TALBOTT] and the gentleman from Missouri, [Mr. PHILIPS.]

Mr. ALDRICH, of Illinois. Now, let us have two on this side.

Mr. WARNER. I made my objection without any knowledge of any arrangement whatever between the Chair and the two sides of the House. I objected on principle to jumping away from the order on the Calendar to requests for unanimous consent. But if there was an arrangement of that kind and my objection would interfere with it, I will yield just to allow two cases, that there may be fairness.

Mr. HUNTON. Let the recognitions be continued till I get through my bill for the colored man.

CRAFTS J. WRIGHT.

Mr. DAVIS, of Illinois. I call up the bill (S. No. 752) granting an increase of pension to Crafts J. Wright.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to Crafts J. Wright, late colonel Thirteenth Regiment Missouri Volunteers, a pension at the rate of $30 per month, in lieu of that which he now receives, to take effect from and after the passage of this act.

The bill was laid aside to be reported favorably to the House.

ORDER OF BUSINESS.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. SMITH] is now recognized.

Mr. HUNTON. I understood I was next on the list of recognitions.

The CHAIRMAN. Not of the recognitions on the side to the left of the Chair.

Mr. COX. I rise to a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. COX. Has the Chair asked the consent of the committee to take up these bills out of their order? I have been waiting all afternoon for an opportunity to call up a bill on behalf of a friend who is now in the gallery and looking down upon us.

The CHAIRMAN. We will reach the gentleman's friend in the gallery, if possible. [Laughter.]

REBECCA REYNOLDS.

Mr. SMITH, of Pennsylvania. I call up the bill (H. R. No. 6423) granting an increase of pension to Rebecca Reynolds.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed, subject to the provisions and limitations of the pension laws, to increase the pension of Rebecca Reynolds, widow of the late Rear-Admiral William Reynolds, from $30 to $50 a month, said increase to take effect from and after the passage of this act; and the Secretary of the Treasury is hereby directed to pay to the said Rebecca Reynolds the sum of money necessary to carry into effect the provisions of this act, out of any moneys in the Treasury of the United States not otherwise appropriated.

The bill was laid aside to be reported favorably to the House.

ORDER OF BUSINESS.

Mr. WARNER. Now I insist there shall be no more granting of requests for unanimous consent. I yielded for the two recognitions on the other side to make it fair.

Mr. WHITE. I move that the committee rise.

Mr. HUNTON. I ask that the bill which I hold in my hand, the bill (H. R. No. 4761) granting a pension to George Foster, be read. I am sure no human being would object to it if he understood the case.

Mr. WARNER. Is that the next bill on the Calendar?

The CHAIRMAN. The Chair is informed it is not.

Mr. WARNER. Regular order!

The CHAIRMAN. The question is on the motion of the gentleman from Pennsylvania that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MCMILLIN reported that the Committee of the Whole had had under consideration the business on the Private Calendar, and had directed him to report sundry bills to the House with various recommendations.

BILLS PASSED.

The SPEAKER. Two bills reported by the Committee of the Whole on a former Friday have not been acted on by the House. The Clerk will read the title of the first of those bills.

The Clerk read as follows:

A bill (H. R. No. 936) relinquishing the right of the United States to an island therein named.

The SPEAKER. This bill last Friday was laid over by agreement.

Mr. THOMAS. It was laid over at my request. An examination of the facts in the case has convinced me there is really no substantial objection to its passage inasmuch as all rights are reserved by the bill.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CLARDY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The title of the next bill reported from the Committee of the Whole on the 28th of January was read, as follows:

A bill (H. R. No. 1583) for the relief of Mrs. Fannie S. Conway, of Louisville, Kentucky.

Mr. WHITTHORNE. The amount named in this bill, $700, is not the proper amount. It ought to be $270. The amount named in the bill is there by mistake. I ask that the bill be amended by substituting $270 for $700.

There being no objection, the amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILLIS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The bills reported from the Committee of the Whole to-day will now be submitted.

Bills of the following titles, reported from the Committee of the Whole with a favorable recommendation and without amendment, were severally ordered to be engrossed and read a third time; and were accordingly read the third time, and passed:

A bill (H. R. No. 1467) granting a pension to Mary A. Casterweller;
A bill (H. R. No. 1885) for the relief of John A. Innes;
A bill (H. R. No. 802) granting a pension to Wyatt Botts;
A bill (H. R. No. 2773) granting a pension to James P. Hunter; and
A bill (H. R. No. 6201) granting a pension to Thomas Worthington.

Bills of the following titles were reported from the Committee of the Whole with amendments; the amendments were agreed to, and the bills, as amended, were ordered to be engrossed and read a third time; and they were accordingly read the third time, and passed:

A bill (H. R. No. 4257) granting a pension to Jane Stout;
A bill (H. R. No. 4028) granting a pension to Jesse T. Myers;
A bill (H. R. No. 2550) granting a pension to Lewis Blundin;
A bill (H. R. No. 2549) granting a pension to Edward N. Mitchell;
A bill (H. R. No. 1452) for the relief of James B. Furman;
A bill (H. R. No. 1453) for the relief of James R. Gordon;
A bill (H. R. No. 1455) granting a pension to Albert O. Miller;
A bill (H. R. No. 1259) granting a pension to Phineas Gano;
A bill (H. R. No. 2439) granting a pension to Henry Mills;
A bill (H. R. No. 853) granting a pension to Caroline Stief;
A bill (H. R. No. 2075) granting a pension to Amanda J. McFadden; and
A bill (H. R. No. 3309) for the relief of John J. Neale.

Mr. COFFROTH moved to reconsider the various votes by which pension bills had been passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next bill reported from the Committee of the Whole was the bill (H. R. No. 6717) for the allowance of certain claims reported by the accounting officers of the United States Treasury Department.

The bill was reported with amendments.

The SPEAKER. If there be no objection, the amendments will be voted on in gross.

There was no objection.

The amendments were agreed to; and the bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BRAGG moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next bill reported from the Committee of the Whole with a favorable recommendation was the bill (H. R. No. 6248) directing the payment of certain awards in favor of certain parties therein named.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BRAGG moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next bill reported from the Committee of the Whole with a favorable recommendation was the bill (H. R. No. 301) for the relief of William R. Wilmer.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. TALBOTT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next bill reported from the Committee of the Whole with a favorable recommendation was the bill (H. R. No. 4367) granting a pension to Emma A. Porch.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PHILIPS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next bill reported from the Committee of the Whole with a favorable recommendation was the bill (S. No. 752) granting an increase of pension to Crafts J. Wright.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. DAVIS, of Illinois, moved to reconsider the vote by which the

bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The next bill reported from the Committee of the Whole with a favorable recommendation was the bill (H. R. No. 6423) granting an increase of pension to Rebecca Reynolds.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SMITH, of Pennsylvania, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BILLS LAID ON THE TABLE.

The bill (H. R. No. 59) for the relief of John Murphy was reported from the Committee of the Whole without recommendation.

Mr. DAVIS, of Illinois. I move that the bill be laid upon the table.

The motion was agreed to.

The bill (H. R. No. 3123) to authorize the Secretary of the Interior to place upon the pension-roll the name of Joseph Cartwright was reported from the Committee of the Whole with a favorable recommendation.

Mr. UPDEGRAFF, of Ohio. Since we were in Committee of the Whole I have ascertained this case has passed the Pension Office. I move that the bill be laid on the table.

The motion was agreed to.

Bills of the following titles, reported from the Committee of the Whole with adverse recommendations, were severally laid upon the table:

A bill (H. R. No. 4609) granting arrears of pension to Margaret R. Colonoy; and

A bill (H. R. No. 2764) granting a pension to William G. Thompson.

BUREAU OF ANIMAL INDUSTRY.

Mr. HATCH, from the Committee on Agriculture, reported a bill (H. R. No. 7159) for the establishment of a bureau of animal industry, to prevent the exportation of diseased cattle and the spread of infectious and contagious diseases among domestic animals; which was read a first and second time, ordered to be printed, and recommitted to the Committee on Agriculture.

JOHN H. TEMPLETON.

Mr. STONE, from the Committee on the Post-Office and Post-Roads, by unanimous consent, reported a bill (H. R. No. 7160) for the relief of John H. Templeton, postmaster at Millerton, New York; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM A. NOBLE.

Mr. STONE, from the same committee, also reported back, with a favorable recommendation, the bill (H. R. No. 6665) for the relief of William A. Noble; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

Z. E. KOON.

Mr. STONE, from the same committee, also reported back, with a favorable recommendation, the bill (H. R. No. 6990) for the relief of Z. E. Koon; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

LOAN OF UNITED STATES FLAGS, TENTS, ETC.

Mr. WILLIS, by unanimous consent, introduced a joint resolution (H. R. No. 393) authorizing the Secretary of War to loan certain tents, flags, &c., to the Masons at Louisville, Kentucky; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

FUNDING DISTRICT OF COLUMBIA EIGHT PERCENTS.

Mr. NEAL, by unanimous consent, from the Committee on the District of Columbia, reported back, with an amendment, the bill of the Senate No. 1681, to provide for funding the 8 per cent. indebtedness of the District of Columbia; which, with the accompanying report, was ordered to be printed, and recommitted to the Committee on the District of Columbia.

Mr. WARNER. I move that the House now adjourn.

The motion was agreed to upon a division—ayes 61, noes not counted; and accordingly (at four o'clock and thirty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By the SPEAKER: The petition of certain citizens of Oberlin, Ohio, relative to the method of counting the votes of electors for President and Vice-President—to the Committee on the state of the laws respecting ascertainment and declaration of Result of Election of President and Vice-President.

By Mr. BREWER: The petition of B. P. Conn, M. L. Bagg, and 44 others, citizens of Clinton County, Michigan, for an income tax—to the Committee on Ways and Means.

By Mr. CARPENTER: The petition of Frederick Bock, R. B. Taylor, and others, of West Side, Iowa, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. COBB: The petition of Bryant Cobb, administrator of the estate of W. R. W. Cobb, deceased, that the amount due said estate for property taken and furnished the United States Army during the late war be paid—to the Committee on War Claims.

By Mr. CROWLEY: The petition of the bar of Niagara, Monroe, and Erie Counties, New York, that the salaries of the United States judges in the State of New York be increased—to the Committee on the Judiciary.

By Mr. ERRETT: Resolutions of the Chamber of Commerce of Pittsburgh, Pennsylvania, against a reimposition of tolls on the Louisville Canal—to the Committee on Commerce.

By Mr. FINLEY: The petition of citizens of Ohio, for the passage of an interstate-commerce bill—to the same committee.

Also, the petition of citizens of Ohio, that the Bureau of Agriculture be made a Department—to the Committee on Agriculture.

Also, the petition of citizens of Ohio, for the amendment of the patent laws—to the Committee on Patents.

By Mr. GILLETTE: The petition of J. C. Peacock and 43 others, ex-soldiers of the late war, citizens of Iowa, against the passage of the sixty-surgeons bill—to the Committee on Invalid Pensions.

By Mr. N. J. HAMMOND: The petition of Morgan Rawls, for reimbursement of expenses in a contest for a seat in the House of Representatives of the Forty-third Congress—to the Committee on Elections.

By Mr. HEILMAN: The petition of 60 soldiers of Pike County, and of 60 soldiers of Gibson County, Indiana, against the passage of the sixty-surgeons bill—to the Committee on Invalid Pensions.

By Mr. HOUK: The petition of soldiers of East Tennessee, of similar import—to the same committee.

By Mr. McGOWAN: The petition of J. W. Breakey and 30 others, citizens of Homer, Michigan, for the enactment of an income-tax law—to the Committee on Ways and Means.

Also, the petition of A. B. Sabin and 26 others, citizens of Homer, Michigan, that the Bureau of Agriculture be made a department—to the Committee on Agriculture.

Also, the petition of J. W. Breakey and 40 others, citizens of Homer, Michigan, for legislation to protect innocent purchasers of patented articles—to the Committee on Patents.

Also, the petition of A. Cunningham and 27 others, citizens of Homer, Michigan, for legislation regulating interstate commerce—to the Committee on Commerce.

By Mr. PHISTER: The petition of Duncan Harding and 59 others, citizens of Robertson County, Kentucky, for interstate-commerce legislation to prevent discrimination as to freights, and to secure equality in rates in proportion to services rendered—to the same committee.

By Mr. SAWYER: The petition of D. K. Morton and others, of Clay County, Missouri, for the passage of a law to protect innocent purchasers of patented articles—to the Committee on Patents.

Also, the petition of S. H. Soper and others, of Clay County, Missouri, for the passage of an interstate-commerce bill—to the Committee on Commerce.

Also, the petition of A. F. Means and others, of Clay County, Missouri, for the passage of an income-tax law—to the Committee on Ways and Means.

Also, the petition of J. L. Hodges and others, citizens of Clay County, Missouri, that the Bureau of Agriculture be made a department—to the Committee on Agriculture.

By Mr. STEVENSON: The petition of citizens of San José, Illinois, against the passage of Senate bill No. 496—to the Committee on Invalid Pensions.

By Mr. P. B. THOMPSON: Papers relating to the claim of Smith and Pulaski Counties, Kentucky—to the Committee on Commerce.

By Mr. URNER: The petition of J. M. Norris and others, of Allegany County, Maryland, for bounty for drafted men—to the Committee on Military Affairs.

Also, the petition of Le Compte Post No. 14, Grand Army of the Republic, of Preston, Maryland, for the passage of Commissioner of Pension's bill for sixty surgeons—to Committee on Invalid Pensions.

Also, the petition of Charles P. Seuffin and others, of Washington County, Maryland, against the passage of the sixty-surgeons pension bill—to the same committee.

By Mr. WASHBURN: The petition of Samuel Bloomer and others, for the passage of the amendment proposed to Senate bill No. 496—to the same committee.

Also, the petition of E. H. Atwood and 50 others, citizens of Stearns County, Minnesota, for legislation to protect innocent purchasers against the impositions of fraudulent venders of patents and patent rights—to the Committee on Patents.

Also, the petition of E. H. Atwood and 46 others, citizens of Stearns County, Minnesota, for the passage of an income-tax law—to the Committee on Ways and Means.

By Mr. WEAVER: The petition of Paul Bishop and 50 others; of Alvion Gates and 18 others, citizens of Maine; of D. W. Dyer and 180 others, citizens of Maine; of H. C. Diehl and 50 others, of Great Bend, Kansas; of Lyman Birch and 69 others, citizens of Fond du Lac, Wisconsin; and of J. N. Chidester and 250 others, of West Virginia,

against refunding the public debt, and for the payment of the same—to the same committee.

Also, the petition of L. F. Stowe and 302 others, and of Joseph C. Doud and 15 others, citizens of Wisconsin, of similar import—to the same committee.

Also, the petition of Rev. J. G. Hull and 15 others, citizens of Wisconsin, that Congress pay off the public debt in legal tenders at the rate of $50,000,000 per month—to the same committee.

IN SENATE.

SATURDAY, *February* 12, 1881.

The Senate met at twelveo'clock m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

The Journal of yesterday's proceedings was read and approved.

CREDENTIALS.

Mr. CONKLING presented the credentials of Thomas C. Platt, chosen by the Legislature of New York a Senator from that State for the term beginning March 4, 1881; which were read, and ordered to be filed.

The VICE-PRESIDENT presented the credentials of THOMAS F. BAYARD, chosen by the Legislature of Delaware a Senator from that State for the term beginning March 4, 1881; which were read, and ordered to be filed.

EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting copies of letters from the Commissioner of Pensions relative to the condition of the working force of his office and his appropriation for "contingent expenses;" which was referred to the Committee on Appropriations.

He also laid before the Senate a letter from the Secretary of War, transmitting a communication from the Chief of Engineers relative to the wants of navigation and commerce at the head of Lake Superior; which was referred to the Committee on Commerce, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. CONKLING presented the memorial of Henry S. Distin and others, of East Jewett, New York, soldiers of the late war, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and the amendments thereto; which was ordered to lie on the table.

He also presented a petition of the leading mercantile and other firms of the city of New York and marine insurance companies, through their officers, praying for an appropriation of money for widening and deepening the channel in Gowanus Bay, in the harbor of New York; which was referred to the Committee on Commerce.

Mr. BAYARD presented the petition of Walton, Whann & Co. and other manufacturing firms of Wilmington, Delaware, praying for an appropriation for the improvement of the Christiana River, Delaware; which was referred to the Committee on Commerce.

He also presented the petition of Peter Robinson and 28 others, citizens of Delaware, and the petition of Ebe Townsend and 28 others, citizens of Delaware, praying for an appropriation for the improvement of the Indian River in that State; which were referred to the Committee on Commerce.

Mr. CAMERON, of Wisconsin, presented the memorial of James R. Luce and others, of Stevens Point, Wisconsin, soldiers of the late war, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims, and the amendments thereto; which was ordered to lie on the table.

Mr. VOORHEES. I present, perhaps in the nature of a memorial, a resolution adopted by the fourth general conference of the American Library Association, held in this city on the 10th of this month, and I ask that it be read in consideration of the high character of the gentlemen who compose the conference. The resolution is signed also by the librarians of the foremost libraries in the United States, and I ask that the signatures may be published in the CONGRESSIONAL RECORD.

The resolution was read, and referred to the Committee on the Library, as follows:

At the meeting on February 10, 1881, of the fourth general conference of the American Library Association, held in Washington, the following resolution was adopted:

"*Resolved*, That the American Library Association of librarians, assembled in annual conference at Washington, share the conviction of the United States of America, that the Library of Congress is emphatically the one National Library, the only one in the country destined to be encyclopedic and universal in its comprehensiveness, like the government libraries of the Old World; and it therefore reaffirms the spirit of the resolution adopted at its last meeting, that it is desirable that provisions should speedily be made for the Library by a new building, to be commensurate with its present necessities and future magnitude."

JUSTIN WINSOR,
President American Library Association.
MELVIL DEWEY,
Secretary.

This librarians' convention was attended by the following-named librarians: President, Justin Winsor, librarian of Harvard University; A. R. Spofford, Librarian of Congress; William F. Poole, Chicago Public Library; Henry A. Holmes, New York State Library; Lloyd P. Smith, Library Company of Philadelphia; Daniel C. Gilman, president Johns Hopkins University; S. S. Green, Worcester Free Public Library; J. N. Larned, Buffalo Young Men's Library; C. A. Cutter, Boston Athenæum; F. Jackson, Newton, Massachusetts; J. S. Billings, Surgeon-General's Office; Mellen Chamberlain, Boston Public Library; John Eaton, United States Commissioner of Education; John Edmunds, Philadelphia Mercantile Library; Weston Flint, United States Paetnt Office; C. M. Hewins, Hartford Library; S. B. Noyes, Brooklyn Library; Lucy Stevens, Toledo Public Library; C. W. Merrill, Public Library, Cincinnati; W. T. Peoples, Mercantile Library, New York; H. W. Haynes, trustee Boston Public Library; G. W. Harris, Cornell University Library; A. P. Massey, Case Library, Cleveland, Ohio; Fred. Vinton, College of New Jersey Library; A. W. Tyler, Indianapolis Public Library; H. T. Carr, Grand Rapids, Michigan; T. Leypoldt, Library Journal; T. P. W. Rogers, Free Library, Burlington, Vermont; W. M. Griswold, Bangor, Maine; R. B. Pool, Young Men's Christian Association, New York; H. F. Bassett, Bronston, Waterbury, Connecticut; O. H. Robinson, Rochester University, New York; D. L. Shovey, late president Public Library, Chicago; K. A. Lindefelt, Milwaukee Public Library; W. E. Foster, Public Library, Providence, Rhode Island; E. J. Nolan, Academy Natural Sciences, Philadelphia; S. B. Maxwell, Iowa State Library; J. M. W. Lee, Mercantile Library, Baltimore; P. R. Uhler, Peabody Institute Library, Baltimore; W. H. Browne, Johns Hopkins University Library, Baltimore.

Mr. VOORHEES presented the petition of Peter Schultz and others, citizens of Indiana, praying for the enactment of an income-tax law in order that the burden of taxation may be equally and justly imposed on the wealth of the country; which was referred to the Committee on Finance.

He also presented the petition of T. B. Barkley and others, citizens of Indiana, praying for the passage of the bill now before Congress making the Commissioner of Agriculture a member of the President's Cabinet; which was referred to the Committee on Agriculture.

He also presented the petition of Alfred Miller and others, citizens of Indiana, praying for such legislation upon the subject of interstate commerce as will secure equality of privileges for all our citizens in the matter of transportation; which was referred to the Committee on Transportation Routes to the Seaboard.

He also presented the petition of George M. Fowler and others, citizens of Indiana, praying for the enactment of a law that will protect innocent purchasers against the imposition of fraudulent venders of patents and patent rights; which was referred to the Committee on Patents.

Mr. ALLISON presented the memorial of James W. Moore and others, citizens of Maquoketa, Iowa, surviving soldiers of the war for the Union, remonstrating against the passage of the bill (S. No. 496) providing for the examination and adjudication of pension claims; which was ordered to lie on the table.

INTERNATIONAL EXHIBITION OF 1883.

Mr. KERNAN. I am authorized by the Committee on Finance, to whom was referred the joint resolution (S. R. No. 156) in relation to the international exhibition of 1883, to report it without amendment. I think it will take but a moment to pass the joint resolution; and I venture to ask unanimous consent that it be acted upon now.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

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

COUNT OF ELECTORAL VOTES.

Mr. MORGAN. I am directed by the Select Committee to take into consideration the state of the law respecting the ascertaining and declaration of the Result of the Elections of President and Vice-President of the United States, to say that in view of the very few legislative days of the session remaining they are of the opinion that it will not be of any value to consider the measures that are now pending before that committee any further during the present session, unless the Senate should be pleased otherwise to direct. The committee feel very anxious, indeed, to bring forward some propositions for the consideration of the Senate in reference to this very important subject, but feel that their effort would be entirely in vain if they should attempt to do so at this late day of the session.

BILLS INTRODUCED.

Mr. HEREFORD. I ask leave to introduce a bill, and in connection with it I wish to have read a joint resolution of the Legislature of West Virginia.

The Chief Clerk read as follows:

STATE OF WEST VIRGINIA,
Office of Clerk of the House of Delegates.

Joint resolution No. 6, instructing our Senators and requesting our Representatives in Congress to introduce a bill ceding to the State of West Virginia the vacant lands and water-power at Harper's Ferry, in the county of Jefferson.

Resolved by the Legislature of West Virginia, That our Senators be instructed and our Representatives be requested to introduce a bill into their respective bodies, asking the United States to cede to the State of West Virginia the vacant lands, water-power, or any other property belonging to the United States in the town of Harper's Ferry or county of Jefferson, the proceeds from the sale of which shall be applied to educational purposes as directed by the Legislature of this State; that the governor shall cause a copy of the foregoing resolution, immediately upon its passage, to be transmitted to each Senator and Representative in Congress from this State.

Adopted by the Legislature of West Virginia January 24, 1881.

Attest:

J. B. PEYTON,
Clerk of the House of Delegates.

Mr. HEREFORD asked and, by unanimous consent, obtained leave to introduce a bill (S. No. 2177) to cede certain property in the county of Jefferson to the State of West Virginia; which was read twice by its title, and referred to the Committee on Education and Labor.